ing said testator his only lawful issue him surviving, so that upon the failure of issue of said Matthias Aspden, the father, and of said Matthias Aspden, the testator, plaintiff, as the grandson and heir-at-law of said John Aspden, who was the eldest brother of the said Matthias Aspden, the testator, become on the death of said testator his heir-at-law.

That he is advised and submits that, as such heir of the said testator, he is entitled under the will of testator to the residue of the personal estate and effects of said testator, after payment of his funeral and testamentary expenses, debts, and legacies, and which residue amounts to a very large sum.

That the said Henry Nixon, although he has proved said will in this country, always has been, and still is, resident at Philadelphia aforesaid, North America; and he has signed and sent over to Samuel Williams and John Sterling, both of the city of London, merchants, a general power of attorney, to collect, get in, and receive all the personal estate and effects of said testator in this country, with direction to them to remit to him, the said Henry Nixon, in America, all such personal estate and effects of the said testator, when, and as soon as, they are received by them, the said Samuel Williams and John Sterling. And said Henry Nixon threatens and intends to misapply such personal estate and effects, and, instead of accounting with and paying to plaintiff the residue of said testator's personal estate and effects, as the residuary legatee under said will, to pay and apply same in a manner which is in direct opposition to said will.

That he has caused notice of his aforesaid rights, under said will, to be given to said Samuel Williams and John Sterling, and has requested them not to receive or remit such personal estate and effects of said testator to said Henry Nixon. But said Samuel Williams and John Sterling threaten and intend, under said power of attorney, to sell out said bank stock and bank annuities, and likewise said India stock and said South Sea stock, and also to receive the money, securities, and effects of and belonging to said testator at said Messrs. Hoares, his bankers, and all the other personal estate and effects of said testator in this country, and to remit the produce of said stocks and annuities, and what he shall so receive in respect of the other personal estate and effects of said testator, to said Henry Nixon. And said governor and company of the Bank of England, and said East India company and South Sea company, intend, respectively, to permit the aforesaid respective transfers of such respective quantities of stock and annuities to be made by said Samuel Williams and John Sterling, unless they are prevented from so doing by this court, although they have been respectively applied to by plaintiff not to permit such transfer. And said Messrs. Hoare likewise intend to pay over and part with, to the said Samuel Williams and John Sterling, the money, securities, and effects of said testator in their hands, unless restrained by the court from so doing.

That there are certain persons in America who claim to be [the heirs at law and] next of kin to said testator, [according to the laws of the State of Pennsylvania, one of the United States of North America; and

they allege that by the laws of Pennsylvania, within which the city of Philiadelphia is situated, the real and personal property, undisposed of by the will of a person who dies not leaving a father, mother, wife, or children, but brothers and sisters of the whole, and also of the half-blood, or their representatives, would be distributed as follows, that is to say, the brothers and sisters of the whole blood, and the legal representatives of such of the brothers and sisters of the whole blood as are dead, would inherit the real estate in fee simple, as tenants in common; the representatives of those who are dead taking together the same share which their parent would have taken if living. And the personal estate would be equally divided among the brothers and sisters of the whole and of the half-blood, of their representatives; the representatives of a deceased brother or sister taking the share which their parent would have taken if living. But if there are no brothers and sisters of the whole blood, or their representatives, then brothers and sisters of the half-blood would take the whole of the personal property in exclusion of other kindred of the whole blood, and would inherit the real estates in fee simple. And that, by the laws of Pennsylvania, representation is not confined to the children of brothers and sisters, and their issue, but is extended to the most remote descendants, children always taking together the same share which their parents would have done, if any living. And that George Harrison and Thomas Henry White allege that Mary Harrison, deceased, was the half-sister of the said testator on his father's side, and that they together with others, are her descendants; and that Rebecca and Esther Hartley allege that they and Roger Hartley, deceased, and others, were the half-brothers and sisters of the said testator, on the maternal side; and that there are very numerous descendants of the said Roger Hartley, and the other half-brothers and sisters of the said testator. That Samuel Packer alleged that the mother of the testator was Rebecca Aspden, whose maiden name was Rebecca Packer; that her eldest brother was called Samuel Packer, and that he died, leaving his eldest son, Daniel Packer, deceased, who left the said Samuel Packer, his eldest son. That Joseph Lippincott and Martha Cole alleged that Rhody Packer was the sister of the said testator's mother, the said Rebecca Packer, who married George Hammett; and that the said Joseph Lippincott and Martha Cole, together with several others, are their descendants. That the said George Harrison and T. H. White, on behalf of themselves and the other descendants of the said Mary Harrison, and the said Rebecca Borough and Esther Hartley, on behalf of themselves and the other descendants of the said Roger Hartley, and of the other half-brothers and sisters of the said testator on the maternal side; and the said Samuel Packer, and the said Joseph Lippincott and Martha Cole, on behalf of themselves and the other descendants of the said George Hammett and Rhody Packer, respectively claim to be entitled to the residue of the personal estate and effects of the said testator, under, and by virtue of, his said will; and that the above named brothers and sisters of the said testator claim to be the next of kin to the said testator,

according to the laws of England,] of his half-blood, or as being descended from them; and in that character claims to be entitled, under said will of said testator, to the residue of his personal estate and effects. But plaintiff further showeth, that, if such be the case, plaintiff is unable to set forth whether such brothers or sisters of the half-blood, if any such are living or dead, or, if dead, whether they have left any children, or child, or whom.

That plaintiff is advised and humbly submits, that, upon the true construction of said will of testator, [neither] the next of kin, [according to the laws of the State of Pennsylvania, or the laws of England, or the heirs-at-law of the said testator, according to the said laws of Pennsylvania,] are entitled under the same will to take the residue of the personal estate and effects of said testator, but that plaintiff is entitled to [the] same under said will as the heir-at-law of said testator, [according to the laws of England.]

That [the said G. Harrison, T. H. White, Rebecca Borough, Esther Hartley, Samuel Packer, Joseph Lippincott, and Martha Cole, are out of the jurisdiction of this honorable court, and that, under the aforesaid] circumstances, plaintiff was in hopes that said Henry Nixon would have accounted with plaintiff for the residue of the personal estate of said testator, after payment of his funeral and testamentary expenses, debts, and legacies; but said Henry Nixon, combining, &c., positively refuses to account with and pay plaintiff the residue and effects of said testator, but threatens and intends to withdraw from this country, by means of his aforesaid agents, the defendants, S. Williams and J. Sterling, all the personal estate and effects of testator in this country, and apply [the] same contrary to the will of testator.

Charges and submits to the court that said defendants, the governor and company of the Bank of England, and said East India company, and South Sea company, ought to be respectively restricted by the order of the court from permitting any transfer to be made by defendant, Henry Nixon, or said defendants, S. Williams and J. Sterling, of said respective stocks and annuities of said testator, standing in [their, or any of their names, or in the name of the said testator,] in their respective books; and that the defendants, Messrs. Hoare, ought likewise to be restrained from parting with said money, securities, and effects in their hands; and also that said defendants, the governor and company of the Bank of England, should be ordered to transfer the aforesaid bank stock and bank annuities into the name of the accountant general of the court, in trust in this cause; and also that proper directions should be given for [the] sale of said East India stock and South Sea stock of said testator, and that the money arising therefrom, respectively, should be invested in the purchase of three per cent. consolidated bank annuities, in the name of said accountant general in trust in this cause; and also that the said defendants, Messrs. Hoare, should be directed to pay the money of said testator in their hands into court, and that [the] same should be laid out in like manner.

Charges and submits that some proper person ought to be appointed

by the court, to receive and get in all the other outstanding estate and effects of said testator in this country. All which actings, &c.

Prayer.

That the said defendant, Henry Nixon, may set forth an account of the personal estate and effects of the said testator, possessed by him, or by any person or persons by his order, or for his use, and how and in what manner the same has been disposed of; and that an account may be taken, by and under the direction of this court, of the personal estate and effects of said testator, possessed or received by, or come to the hands of, the said defendant, Henry Nixon, or of any other person or persons by his order, or for his use, or got in and possessed, or secured in any way, since the decease of the said testator; and that such personal estate and effects may be applied in payment of the said testator's funeral and testamentary expenses, debts and legacies, in a due course of administration; and that the residue of such personal estate and effects may be ascertained; and that plaintiff may be declared by this court to be entitled, upon the true construction of the said will, as heir of the said testator [according to the law of England] to such residue; and that such residue may be accordingly directed by this court to be paid to plaintiff; and that, in the mean time, the said defendant, Henry Nixon, and the said defendants, Samuel Williams and J. Sterlling, may be restrained, by the injunction of this court, from collecting and receiving any part of the personal estate and effects of the said testator in this country, and particularly from selling or transferring the said sums of £4,000 bank stock, £10,000 £3 per cent. consolidated bank annuities, [£6,500] reduced 3½ per cent. bank annuities, [£6,000 £4 per cent. annuities, not assented to take £3 10 per cent. per annum in lieu thereof, in the manner and at the times required by the said act of the 5th year of his present majesty's reign,] and £3,500 new 4 per cent. bank annuities, standing in the books of the said governor and company of the Bank of England, in the name of the said testator; and the said sum of £3,000 stock, standing in the books of the said East India company, in the name of the said testator; and the said sum of £5,000 stock standing in the books of the said South Sea company, in the name of the said testator, and from receiving the dividends, [or interest] thereon, respectively; and the said moneys, securities, and effects now in the hands of the said defendants, Messrs. Hoare, as bankers of the said testator; and that the said defendants, the governor and company of the Bank of England, and the said defendants, the East India company, and the said defendants, the South Sea company, may be, respectively, restrained from permitting any transfers of such respective sums to be made; and that also the said defendants, the governor and company of the Bank of England, may be directed to transfer the said respective stocks, now standing in the name of the said testator in the said books, and all dividends accrued thereon, respectively, into the name of the accountant general of this honorable court, in trust in this cause; and also that proper directions may be

given for the sale of the said stock, respectively standing in the name of the said testator in the respective books of the East India company and of the South Sea company, and that the moneys arising from such sale may, together with any other moneys belonging to the estate of the said testator, and paid into court, be laid out in the purchase of stock in the 3 per cent. consolidated bank annuities, in the name of the said accountant general, in trust in this cause; and that the said defendants, Messrs. Hoare, may be restrained from paying and delivering the said money, securities, and effects of the said testator, in their hands, to the said defendant, H. Nixon, or the said defendants, S. Williams and J. Sterling; and that the said defendants, Messrs. Hoare, may be ordered to pay the money of the said testator, in their hands, into court; and that the said defendants, S. Williams and J. Sterling. may be restrained, by the injunction of this honorable court, from remitting any part of the personal estate and effects of the said testator, in this country, to the said defendant, Henry Nixon; and that some proper person may be appointed by this honorable court to receive and get in all other *the* outstanding personal estate and effects of the said testator. And for relief is the bill.

Answer of defendant, Nixon, taken at Philadelphia, 19th May, 1826, *before John Sergeant, Hy. Hollingsworth, Jacob R. Smith; filed 20th June,* 1826.

Saith he believes that Matthias Aspden, the testator in the said bill named, was born in or about the year 1756, at Philadelphia, in North America, then being the place of residence of his parents; that he continued to reside there, and afterwards was engaged in business at Philadelphia, as a merchant, with some success, before he was 21 years of age. Upon the breaking out of the war between Great Britain and America, in the year 1776, or some time in that year, being still a minor, he went to England, with what view the respondent is not able, from his own knowledge, to say; but he believes that he went with an impression that the power of Great Britain must soon prevail in putting down the resistance made in America.

That said testator subsequently came several times to the United States of America, and invested large sums there in the public or Government stock, and on other securities.

That he made his will and codicils thereto, at Philadelphia, the place of his birth, and deposited them in the bank there; but whether, after so returning to the United States of America, the testator went back to England as his home, or only for the purpose of superintending his property there, and whether testator did in fact change his domicil, defendant doth not know, and is unable to answer from his belief or otherwise; but defendant believes that said testator, when in England, considered himself an alien, and as such claimed to have returned the tax from his dividends whilst he was absent from England, according to the provisions of the act exemping aliens from the tax, if not resident in England.

Believes and admits that said testator invested large sums of money in the purchase of stock and annuities in the English Government funds, and also in the funds of the East India company, and of the South Sea company, and also in the public funds of the United States of America, and in France, and in other securities.

Believes it to be true that said testator departed this life in the month of August, 1824, and was, at the time of his death, resident in King street, Holborn, London; but whether said testator was domiciled in England at the time of his death defendant doth not know, and is unable to answer as to his belief or otherwise.

Believes it to be true that said testator, Matthias Aspden, was, in his lifetime, and at the time of his making his will and codicils in the said bill hereinafter mentioned, possessed of very considerable property, and particularly in the English, French, and American funds, and of various other kinds of personal estate and effects, to a very considerable amount in the whole.

And that said testator, in his lifetime, at Philadelphia, duly made and executed his last will and testament, in writing, and three codicils thereto, bearing date 6th day of December, anno domini 1791, and that such will and codicils are in the words and figures, or to the purport and effect, in the said bill in that behalf mentioned and set forth; but for greater certainty as to the date and contents of the said will and codicils, defendant craves leave to refer thereto.

That said testator deposited his said will and codicils, for safe custody, in the cashier's vault of the Bank of North America, at Philadelphia aforesaid, known as the Old bank, where the same were found after his decease.

Believes it to be true that said testator departed this life on or about the 6th day of August, 1824, without having revoked or altered his said will and codicils, and without issue, and that the said testator had never been married. And defendant admits it to be true that George Roberts and Abraham Liddon, in the said bill respectively named, both died in the lifetime of said testator; and that defendant, at the time of the death of said testator, was the president of the Bank of North America, at Philadelphia aforesaid, known by the name of the Old bank.

Believes that said testator did, by the *im*pression of the 3d codicil to his said will, "president of the Old bank," mean the president of the Bank of North America, at Philadelphia aforesaid.

Admits it to be true that, soon after the death of the said testator, defendant duly proved the said will and codicil in the proper court at Philadelphia, in America; and that defendant has also proved the said will and codicils in the prerogative court of Canterbury, in England, and obtained a probate thereof from that court, and thereby became the legal personal representative of the said testator.

Admits it to be true that he (defendant) has possessed himself of all the personal estate and effects of said testator in America, or so much thereof as hath come to his (defendant's) knowledge; a true account

of which is in the schedule hereto annexed, marked A; and defendant has paid the charges of proving the said will in America, and other charges incident thereto, amounting to 701 dollars 74 cents; and five of the legacies (the others not having yet been claimed) bequeathed by the said will, amounting to 1,333 dollars 35 cents, a true account of which payment is in schedule hereto annexed, marked B; and that, as executor, other charges must be incurred in managing and settling the estate, the amount of which cannot now be ascertained, besides which, by the laws of Pennsylvania, he will be entitled to a commission for his services.

Believes it to be true that said testator was, at the time of his death, (among other descriptions of property,) possessed of property in the English funds, and consisting of such stock and bank annuities, and to such amount, as in the said bill in that behalf mentioned; and that said testator was also, at the time of his death, possessed of East India stock, and of South Sea stock, of such respective amount as in the said bill in that behalf mentioned; and that such respective quantities of such respective stock and annuities are still standing in the name of the testator in the books of the said respective companies.

Believes that said testator also died possessed of other personal estate to a considerable amount, and particularly of the sum of £790 3 5, in the hands of his bankers, Messrs. Hoare, in the said bill named.

Saith that he doth not know, and is unable to answer from his belief or otherwise, whether said testator left said complainant *and* his heir-at-law; or whom he left his heir-at-law; or whether Thomas Aspden, of Simondstone, in Lancashire, or what other person, if any, was the common ancestor of the said testator and the complainant; or whether the said last named Thomas Aspden died at the time in the said bill in that behalf mentioned, or at what other time; or whether he had issue 12 children, or what other number of children; or whether the eldest of them was John Aspden, or what other person; or whether the said John Aspden died and was buried at Deptford, in Kent, at the time in the said bill in that behalf mentioned, or at what other time; or whether he left issue only one son named Andrew Aspden, or what other issue; or whether the said Andrew Aspden died and was also buried at Deptford aforesaid, or at what other place, at the time in the said bill in that behalf mentioned, or at what other time; or whether he left issue the complainant, his only child and heir-at-law, or what other child or children, or what other person his heir-at-law.

Saith that he believes it to be true that the name of the father of the testator was Matthias Aspden; but whether the said last named Matthias Aspden was the third or what other son of Thomas Aspden, the alleged common ancestor of the said testator and of the complainant, defendant doth not know, and is unable to answer, from his belief or otherwise.

Believes it to be true that said Matthias Aspden, the father, was resident in America, and, while he was there, married Rebecca Hartley, a native of America, who was the widow of Roger Hartley, deceased, and the daughter of Philip and Rebecca Packer, both residents of

North America; and that the said Matthias Aspden, the father, had issue by her, after the said marriage, an only child, namely, said testator. And defendant has heard mentioned that the said Matthias Aspden married the said Rebecca Hartley, who was his housekeeper, whilst she was pregnant with the said testator.

And that he believes that said Rebecca Hartley had several children by her former husband, Roger Hartley, none of whom are now living, but some of them left children who are still living.

Believes that said Matthias Aspden, the father, had a former wife, named Mary Watson, the daughter of Jonathan Watson, of Elwither, in Lancashire county, in England, by whom he had issue a daughter, named Mary, who intermarried with Henry Harrison, of Philadelphia, and is since deceased, leaving issue several children, one of whom, namely, George Harrison, is now living in the city of Philadelphia. The others are dead, but most of them left children, now living

Believes it to be true that said Matthias Aspden, the father, died in or about the year 1765, at Philadelphia, in North America.

But defendant denies, to the best of his knowledge, information, and belief, that the said Matthias Aspden left the said testator his only lawful issue him surviving; for defendant believes that said Matthias Aspden also left his daughter, Mary Harrison, his lawful issue him surviving.

Saith that there are many persons resident in the United States of America who claim to be next of kin to the said testator. That defendant is not able, from his own knowledge, to name all the persons who so claim to be next of kin; but defendant has annexed to this his answer a schedule, marked C, which he prays may be taken as part of his answer, containing the names of some of the persons so claiming to be next of kin, and the manner in which they have alleged to defendant they are connected with the said testator.

Saith that, as he is advised and believes, the laws regulating the descent and distribution of real and personal estate differ in different States of the United States; but that, by the laws of Pennsylvania, within which the city of Philadelphia is situated, the real and personal property undisposed of by will, of a person who dies, not leaving a father, mother, husband, wife, or children, but brothers or sisters of the whole and also of the half-blood, or their representatives, would be thus distributed: The brothers and sisters of the whole blood, and the legal representatives of such of the brothers and sisters of the whole blood as are dead, would inherit the real estate in fee simple, as tenants in common, the representatives of those who are dead taking together the same share which their parents would have taken if living; and the personal estate would be equally divided among the brothers and sisters of the whole and of the half-blood *of* their representatives, the representatives of a deceased brother or sister taking the share which their parent would have taken if living. But if there are no brothers or sisters of the whole blood, or their representatives, then brothers and sisters of the half-blood would take the personal property absolutely, in

preference of other kindred of the whole blood, and would inherit the real estate in fee simple, except such parts thereof as came to the intestate by descent, devise, or gift of some one of his ancestors; in which case, all those who are not of the blood of such ancestors would be excluded from the inheritance of such part of the real estate. That, by the laws of Pennsylvania, representation is not confined to the children of brothers and sisters, and their issue, but is extended to their most remote descendants; children always taking together the same share which their parents would have done if living.

Saith he doth not know, and is unable to set forth, from his belief or otherwise, whether the complainant, as heir-at-law of the said John Aspden, the alleged eldest brother of the said Matthias Aspden, the father, or in any other way, became, on the death of the said testator, his heir-at-law, or who else is the heir-at-law of the said testator.

Saith he admits it to be true that he has always been, and still is, resident at Philadelphia, aforesaid; and that he has signed and sent over to Samuel Williams and John Stirling, two other of the defendants in the said bill named, a general power of attorney, bearing date the 7th of December, anno domini 1824, to collect in and receive all the personal estate and effects of the said testator in this country, or to that effect, with a direction to them to remit to defendant in America all such personal estate and effects of the said testator, when, and as soon as, the same should be received by them, said Williams and Stirling, or to that effect.

Saith he intended to apply such personal estate and effects in America in such manner as should be determined by a court of competent jurisdiction in that country, and not in any manner which is in direct opposition to the said will, as in the said bill is alleged.

And defendant has been informed and believes that the complainant has caused notice of his alleged rights under the said will to be given to the said Samuel Williams and John Stirling, and has requested them not to receive or remit such personal estate or effects of the said testator to this defendant, or to some such effect.

Believes that the said Samuel Williams and John Stirling intended, under the said power of attorney, or under other proper authority of this defendant, to sell out the said bank stock and bank annuities, and likewise the said East India stock, and also the said South Sea stock; and to receive the money, securities, and effects of the said testator at the said defendants, Messrs. Hoare, his bankers, and all the other personal estate and effects of the said testator in England; and to remit the produce of the said stocks and annuities, and what they should receive in respect of the personal estate and effects of the said testator, to defendant, in order to be distributed according to the direction of the said will.

Saith he believes that the expenses of proving the said will in England amounted to £715 17 10; and that the said Samuel Williams and John Stirling, by virtue of the said power, received £300, being one-half year's dividend of the £3000 East India stock belonging to

the said testator, and applied the same in part payment of said £715 17 10; the residue thereof, amounting to £415 17 10, being, as defendant believes, paid by said defendants, Messrs. Hoare, out of the money in their hands belonging to the said testator.

Saith he admits it to be true, that it is alleged by defendant, and that such is the case, that there are various persons in America who claim to be next of kin of said testator, as being brothers or sisters of his half-blood, or as being descended from them, as is hereinbefore mentioned, and in that character claim to be entitled, under the said will of the said testator to the residue of his personal estate and effects; and defendant hath in the schedule to this his answer annexed, set forth, to the best of his information and belief, their names, descriptions, and places of abode of all such claimants.

Saith he submits to the judgment of this court whether, upon the true construction of the said testator's will, the next of kin of the said testator are entitled, under the same, to take the residue of the personal estate and effects of the said testator, or whether the complainant, if he be the heir-at-law of the said testator, is entitled to the same, under the said will, as such heir-at-law. And defendant hath, to the schedule A, of this his answer annexed, set forth, to the best of his knowledge, recollection, and belief, an account of the personal estate and effects of the said testator, possessed by him, or any person or persons by his order, or for his use; and how and in what manner the same has been disposed of.

And defendant submits to act as this honorable court shall direct; being indemnified and paid his costs, charges, and expenses therein; and denies combination, &c.

Schedule A, referred to in the annexed answer.

Account of the personal estate and effects in America of Matthias Aspden, deceased, which have come to the knowledge and possession of Henry Nixon, his executor.

	Dollars.	Cts.
In 3 per cent. stock of the United States - -	68,632	01
In 7 per cent. stock of the United States - -	10,000	00
20 shares of stock of the Bank of the United States -	2,000	00
Cash received for back dividends in loan office, to 1st of January, 1825 - - - - -	2,669	19
Cash received for back dividends from the Treasury of the United States, to 1st of January, 1825 - -	1,994	06
Cash received from Stephen Girard, being the balance of his account with the testator - - -	361	89
Cash received, being dividends on Government stock, from 1st of Jannary, 1825, to 5th April, 1826 -	3,793	58
Cash received, being dividends of stock of the Bank of		

the United States, from 1st of January, 1825, to 5th April, 1826 - - - - - - -	160 00
	$89,510 73

Note.—Of the above sum of 89,510 dollars 73 cents, there remains in the Treasury of the United States the certificates for the sum of 10,277 dollars 71 cents, of 3 per cent. stock of the United States; and the certificates for the sum of 9,800 dollars of the same having been lost or mislaid during the testator's lifetime, are not in the possession of his executor. The interest on both these sums is paid to the executor, and new certificates may, it is believed, be obtained. The sum of 10,000 dollars of 7 per cent. United States stock, has been paid off by the Government.

Schedule B, referred to in the annexed answer.

Accounts of payments made by Henry Nixon, executor of the will of Mathias Aspden, deceased.

Paid to Asher Hartley, a son of Benjamin Hartley, deceased, his legacy - - - -	$266 67	
Paid to Rebecca Burroughs, a daughter of said Benjamin Hartley, her legacy - -	266 67	
Paid to Bathsheba Brick, another daughter of said Benjamina Hartley, her legacy - -	266 67	
Paid to William Hinchman, a son of Ann Hinchman, deceased, his said legacy - -	266 67	
Paid to Joseph Hinchman, administrator of James Hinchman, (who died after Matthias Aspden,) a son of Ann Hinchman, his legacy - -	266 67	
		$1,333 35
Cash paid expenses of proving the will in Philadelphia, and other charges incident thereto, including fees to counsel - - -	701 74	

Schedule C, referred to in the annexed answer.

The following claim to be next of kin to the testator, Matthias Aspden, to wit:

I. The lineal descendants of Mary Harrison, the half sister of the testator, on the paternal side; those now claiming, are—

1. George Harrison.
2. Thomas H. White.
3. Elizabeth McPherson.
4. Mary Bronson.
5. Mary Harrison.

6. Rebecca McMurtrie.

They allege that they are related to the testator in the following manner: Matthias Aspden, the father of the testator, married, as his first wife, Mary Watson, daughter of Jonathan Watson, of Elwither, of Lancashire county, of England, and had issue, one daughter, Mary, who intermarried with Henry Harrison, of Philadelphia, by whom she had the following children:

1. Mary, who married the right reverend William White. She is dead, leaving 3 children, all of whom are still living, viz:
    1. Thomas H. White.
    2. Elizabeth McPherson, widow of William McPherson, deceased.
    3. Mary Bronson, widow of Enos Bronson, deceased.
2. Henry, who died in the testator's lifetime, without issue.
3. Joseph, who died before the testator, without issue.
4. Anne, who married . Laca, and died, leaving one child, which died in infancy, before the testator.
5. William, } twins, who died in infancy, during the lifetime of the
6. George, } testator.
7. Matthias, who married Rebecca Francis, and died, leaving two children, viz:
    1. Henry, who married Elizabeth Francis, and died before the testator, leaving one child, who is still living, viz., Mary Harrison.
    2. Rebecca, who married James McMurtrie. She is still living.
8. George Harrison, still living.

II. The lineal descendants of the brothers and sisters of the half-blood of the testator, on the maternal side. A part only of these have, as yet, claimed.

1. The children of Roger Hartley, deceased.
2. Rebecca Burrough.
3. Esther Hartley.
4. Bathsheba Brick.
5. Elizabeth Brick.
6. The children of James Hartley, deceased.
7. The children of Mary Brick, deceased.
8. William Hinchman.
9. The children of James Hinchman, deceased.
10. The children of Anne Scule, deceased.
11. The children of John Hinchman, deceased.
12. Sarah Champion.
13. Anne Ellis.
14. John Zanes.
15. Isaac Zanes.
16. Samuel Zanes.
17. Mary A. Church.
18. Anne Worrell.

19. Rebecca Fowler.
20. The children of Isaac Kay, deceased.
21. The children of Matthias Kay, deceased.
22. The children of Elizabeth West, deceased.

They allege that they are related to the testator in the following manner: Rebecca, the mother of the testator, previous to her marriage with the testator's father, had been married to Roger Hartley, by whom she had several children, hereafter named, who were the brothers and sisters of the half-blood of the testator. The said half-brothers and sisters were—

1. Roger Hartley. He is dead, leaving children, but their number is not known.
2. James Hartley. He is said to be dead, without issue.
3. Benjamin Hartley. He is dead, leaving issue, to wit:
    1. James Hartley, who died, leaving issue, number not known.
    2. Mary Brick, who is dead, leaving issue, number not known.
    3. Rebecca Burroughs, now living.
    4. Esther Hartley, now living.
    5. Bathsheba Brick, now living.
    6. Elizabeth Brick, now living.
4. James Hartley, said to be dead, without issue.
5. Anne Hinchman; she is dead, leaving issue, viz:
    1. William Hinchman, living.
    2. James Hinchman, living at testator's death; since dead.
    3. Anne Scule. She is said to be dead, leaving issue. Their number not known.
    4. John Hinchman, said to be dead, leaving children. Their number not known.
6. Bathsheba Zanes. She is dead, leaving issue, viz:
    1. Sarah Champion, living.
    2. Anne Ellis, living.
    3. John Zanes, living.
    4. Isaac Zanes, living.
    5. Samuel Zanes, living.
7. Rebecca Kay. She is dead, leaving issue, viz:
    1. Mary A. Church, living.
    2. Anne Worrell, living.
    3. Rebecca Fowler, living.
    4. Isaac Kay, said to be dead, leaving issue, number not known.
    5. Matthias Kay, said to be dead, leaving issue, number not known.
    6. Elizabeth West, said to be dead, leaving issue, number not known.

III. Those who claim through the brother and sister of the mother of the testator; those who are known are:

1. Samuel Packer. He alleges that he is related to the testator, as follows: The maiden name of testator's mother was Rebecca Packer, she being the daughter of Philip and Rebecca Packer.

Her eldest brother was Samuel Packer, deceased. His eldest son was Daniel Packer, deceased; whose eldest son is Samuel Packer, the claimant, now living.

2. Those who claim through Rhody Packer, who, they allege, was the sister of the testator's mother. Rhody Packer married George Hammett; both are now deceased; they had several children, to wit:
   1. Joseph, who is dead, leaving children, viz:
      1. Ann, who married, and is dead, leaving a son, Joseph Lippincott.
      2. George, who is dead, leaving a daughter, Leah Prichett.
      3. Martha, who married, and is now a widow, (Martha Cole.)
      4. Lydia, who married, and is now a widow, (Lydia Blackwood.)
      5. Hannah, who married, and is dead, leaving a daughter, Maria Hayes.
      6. John, who is living.
      7. Keturah, who married, and is now a widow, (Keturah Schenck.)
      8. Sarah, now living, the wife of S. Kirkbride.
      9. Joseph, now living.
   2. John, who is dead. He left the following children:
      1. Thomas Hammett.
      2. John Hammett.
      3. Sarah Baxter.
      4. Elizabeth Newton.
      5. Anna Shinn.
      6. Hepsaba Hammett.
      7. Priscilla Brown.

      Of these, it is not certainly known how many are living, nor whether those who are dead left children.
   3. Samuel, he is dead. The only child of his, who is known, is Siballa Prichett.
   4. Elias; he is dead, leaving a daughter, Rebecca Phillips.

Joint and several answer of defendants, Williams and Sterling, sworn and filed 24th January, 1826.

Say they have been informed, and believe, that Matthias Aspden, the testator in the said bill named, was formerly a merchant in Philadelphia, in North America, but whether he quitted that country at the time in said bill mentioned, and resided in this country until the time of his death, except at such intervals as in the said bill is mentioned; or whether said testator always returned to this country as his home, after it is alleged his affairs were settled, defendants do not know, and are unable to answer from their belief or otherwise.

Believe it to be true that said testator, during his residence in this country, invested large sums of money in the purchase of stock and

19. Rebecca Fowler.
20. The children of Isaac Kay, deceased.
21. The children of Matthias Kay, deceased.
22. The children of Elizabeth West, deceased.

They allege that they are related to the testator in the following manner: Rebecca, the mother of the testator, previous to her marriage with the testator's father, had been married to Roger Hartley, by whom she had several children, hereafter named, who were the brothers and sisters of the half-blood of the testator. The said half-brothers and sisters were—

1. Roger Hartley. He is dead, leaving children, but their number is not known.
2. James Hartley. He is said to be dead, without issue.
3. Benjamin Hartley. He is dead, leaving issue, to wit:
    1. James Hartley, who died, leaving issue, number not known.
    2. Mary Brick, who is dead, leaving issue, number not known.
    3. Rebecca Burroughs, now living.
    4. Esther Hartley, now living.
    5. Bathsheba Brick, now living.
    6. Elizabeth Brick, now living.
4. James Hartley, said to be dead, without issue.
5. Anne Hinchman; she is dead, leaving issue, viz:
    1. William Hinchman, living.
    2. James Hinchman, living at testator's death; since dead.
    3. Anne Scule. She is said to be dead, leaving issue. Their number not known.
    4. John Hinchman, said to be dead, leaving children. Their number not known.
6. Bathsheba Zanes. She is dead, leaving issue, viz:
    1. Sarah Champion, living.
    2. Anne Ellis, living.
    3. John Zanes, living.
    4. Isaac Zanes, living.
    5. Samuel Zanes, living.
7. Rebecca Kay. She is dead, leaving issue, viz:
    1. Mary A. Church, living.
    2. Anne Worrell, living.
    3. Rebecca Fowler, living.
    4. Isaac Kay, said to be dead, leaving issue, number not known.
    5. Matthias Kay, said to be dead, leaving issue, number not known.
    6. Elizabeth West, said to be dead, leaving issue, number not known.

III. Those who claim through the brother and sister of the mother of the testator; those who are known are:

1. Samuel Packer. He alleges that he is related to the testator, as follows: The maiden name of testator's mother was Rebecca Packer, she being the daughter of Philip and Rebecca Packer.

Her eldest brother was Samuel Packer, deceased. His eldest son was Daniel Packer, deceased; whose eldest son is Samuel Packer, the claimant, now living.

2. Those who claim through Rhody Packer, who, they allege, was the sister of the testator's mother. Rhody Packer married George Hammett; both are now deceased; they had several children, to wit:
   1. Joseph, who is dead, leaving children, viz:
      1. Ann, who married, and is dead, leaving a son, Joseph Lippincott.
      2. George, who is dead, leaving a daughter, Leah Prichett.
      3. Martha, who married, and is now a widow, (Martha Cole.)
      4. Lydia, who married, and is now a widow, (Lydia Blackwood.)
      5. Hannah, who married, and is dead, leaving a daughter, Maria Hayes.
      6. John, who is living.
      7. Keturah, who married, and is now a widow, (Keturah Schenck.)
      8. Sarah, now living, the wife of S. Kirkbride.
      9. Joseph, now living.
   2. John, who is dead. He left the following children:
      1. Thomas Hammett.
      2. John Hammett.
      3. Sarah Baxter.
      4. Elizabeth Newton.
      5. Anna Shinn.
      6. Hepsaba Hammett.
      7. Priscilla Brown.

      Of these, it is not certainly known how many are living, nor whether those who are dead left children.
   3. Samuel, he is dead. The only child of his, who is known, is Siballa Prichett.
   4. Elias; he is dead, leaving a daughter, Rebecca Phillips.

Joint and several answer of defendants, Williams and Sterling, sworn and filed 24th January, 1826.

Say they have been informed, and believe, that Matthias Aspden, the testator in the said bill named, was formerly a merchant in Philadelphia, in North America, but whether he quitted that country at the time in said bill mentioned, and resided in this country until the time of his death, except at such intervals as in the said bill is mentioned; or whether said testator always returned to this country as his home, after it is alleged his affairs were settled, defendants do not know, and are unable to answer from their belief or otherwise.

Believe it to be true that said testator, during his residence in this country, invested large sums of money in the purchase of stock and

annuities in the funds of this country, and also in the funds of the East India company and the South Sea company.

Say they have been informed, and believe, that said testator departed this life in the month of August, 1824; and that he was, at the time of his death, resident in King street, Holborn, London; and that said testator was, in his lifetime, and at the time of his death, possessed of very considerable property, and particularly of the following property in the English funds; that is to say, of the sum of £4,000 bank stock, £10,000 £3 per cent. consolidated bank annuities, £12,000 reduced £3 10 per cent. bank annuities, £3,500 new 4 per cent. annuities, £3,000 East India stock, and £5,000 South Sea stock; and of the sum of £790 3 5 in the hands of his bankers, Messrs. Hoare, four other defendants in bill named.

Say they have been informed, and believe, that said testator was also possessed of considerable property in the American funds, and of other personal estate and effects to a considerable amount, but to what amount in particular defendants do not know, and are unable to set forth from their information or belief.

Say they have been informed, and believe, that said testator, in his lifetime, duly made and executed his last will and testament in writing, and three codicils thereto, bearing date the 6th day of December, 1791; and that such will and codicils are in the words and figures, or to the purport or effect, in said bill in that behalf mentioned.

Say they believe it to be true, that said testator afterwards departed this life at the time in said bill mentioned, without having altered or revoked his said will and codicils; and that he died without having any issue, and without having been married.

Say they believe it to be true, that George Roberts and Abram Liddon, in said bill named, died in the lifetime of said testator, and that the president of the Bank of Philadelphia, at the time of the death of the said testator, was Henry Nixon, another defendant in said bill named; and that said testator did, by the expression in said 3d codicil to his said will, "president of the Old bank," mean president of the bank at Philadelphia aforesaid.

And say they believe it to be true, that the said Henry Nixon, soon after the death of said testator, duly proved his said will and codicils in the proper court, in Philadelphia, in America.

Say that said Henry Nixon executed and sent over to these defendants a general power of attorney, bearing date the 7th day of December, 1824, constituting these defendants his attorneys, jointly for him, as executor of said testator, and in his name as such to ask, demand, sue for, recover and receive, of and from all and every persons and person residing in the kingdoms of Great Britain or Ireland, all debts and sums of money due and owing to the estate of said Matthias Aspden; and also to take into their custody, possession and power, all effects, goods, chattels, stock, and evidences of debt, belonging to said Matthias Aspden, and to demand and receive all dividends and interest upon all stock, government securities, or other public or private securities, stand-

ing in the name of said Matthias Aspden, in the kingdoms of Great [Britain] or Ireland, and (if need be) in his name, or otherwise, to prove said will of said Matthias Aspden, in the kingdom of Great Britain and Ireland; and generally for him, the said Henry Nixon, as executor as aforesaid, to do, transact, and perform all and every act and acts, things and matters, needful and expedient in and about the premises and management of the affairs and concerns of the said Matthias Aspden, in the kingdoms aforesaid, as fully and effectually as he, the said Henry Nixon, as executor as aforesaid, could or might do or transact, if personally present; but for greater certainty as to the said power of attorney, defendants crave leave to refer thereto.

Say that, in pursuance and by virtue of the said power of attorney, defendants caused a commission from the prerogative court of Canterbury to be sent to Philadelphia aforesaid, by virtue whereof the said Henry Nixon duly proved the said will of said testator, Matthias Aspden, and probate thereof was granted to him by the said court.

Admit it to be true, that they received a direction from said Henry Nixon to sell out the said stocks or funds standing in said testator's name as aforesaid, and to convert all said testator's personal estate in this country into money, and to remit the proceeds to said Henry Nixon, in America, to be distributed by him in that country, according to his said will and codicils.

Say that plaintiff obtained an order in this cause, dated 9th August, then last, (1825,) whereby defendants were restrained from selling or transferring the said £4,000 bank stock, £10,000 £3 per cent. consolidated bank annuities, £12,500 £3 10*s.* per cent. reduced bank annuities, (late 4 per cent. annuities,) and £3,500 new 4 per cent. annuities; and also from selling or transferring the said £3,000 East India stock, and £5,000 South Sea stock, and from receiving any dividends due, or to become due, on said bank annuities and stocks respectively, save and except the dividends then already due on said East India and South Sea stocks.

Say that the expenses of proving the said will, in England, amounted to £715 17 10, and that defendants, by virtue of said power, received £300, being one half year's dividend of the £3,000 East India stock belonging to the said testator, and applied the same in part payment of the said £715 17 10; the residue thereof, amounting to £415 17 10, being paid by said defendants, Messrs. Hoare, out of the money in their hands belonging to said testator.

Say they have not received any part of the dividends of said South Sea stock, and have not possessed themselves of any other part of the said testator's personal estate or effects, except as aforesaid. Say they have no personal interest in the matters in question in this suit, and they submit to act as this honorable court shall direct, being indemnified and paid their costs.

Deny combination, &c.

Answer of defendants, the governor and company of the Bank of England—Sealed 1st, and filed 3d December, 1825.

Say they have caused their accountant to search the books of defendants, and they are informed by their said accountant, and they believe the same to be true, that there was not any sum, either in bank stock, consolidated 3 per cent. bank annuities, new 4 per cent. annuities, or £3 10 per cent. reduced bank annuities, standing in the name of Matthias Aspden, of King street, Holborn, London, deceased on the 9th day of August, 1824.

But say they are informed by their said accountant, and they believe the same to be true, that there was, on the said 9th day of August, 1824, and now is, the sum of £4,000 bank stock standing in the name of Matthias Aspden, of Orange street, Red Lion square, esquire.

Say they have been informed by their said accountant, and they believe the same to be true, that there was on the said 9th day of August, 1824, and there now is, the sum of £10,000 consolidated 3 per cent. bank annuities standing in the name of Matthias Aspden, of Philadelphia, North America, esquire; and that there was on the said 9th day of August, 1824, and now standing in the name of Matthias Aspden, of Fenchurch street, gentleman, the sum of £3,500 new 4 per cent. bank annuities; and that there were and now are respectively standing in the name of Matthias Aspden, of Norfolk street, esquire, the sums of £6,500 £3 10 reduced annuities, and £6,000 4 per cent. bank annuities, (1780,) not assented to receive £3 10 reduced annuities, pursuant to act 5 Geo. 4, cap. 11.

Say they are strangers to the several other matters and things in said complainants' said bill of complaint contained, and are ready and willing to act as this honorable court shall direct, being indemnified and paid their costs.

Deny combination, &c.

Answer of defendants, the united company of merchants of England, trading to the East Indies, filed 10th December, 1825.

Say that the sum of £3,000 East India stock in said bill mentioned was, on the 1st day of December, 1820, standing, and hath ever since remained, in the name of Matthias Aspden in the books of these defendants.

Say that the dividends which from time to time accrue, due in respect of the said sum of £3,000 East India stock, in the lifetime of the said Matthias Aspden, were duly paid to him or to his lawfully constituted attorney; and that all the dividends which have accrued due thereon since his decease, have been paid to Samuel Williams and John Sterling, in the said bill named, the lawfully constituted attorneys of Henry Nixon, in the said bill also named, as the executor of the said Matthias Aspden.

Say they are strangers to the several other matters and things in the said plaintiffs' said bill of complaint contained, but are ready to act as

this honorable court shall direct, on being indemnified and paid their costs.

Deny combination, &c.

Answer of defendants, the governor and company of merchants of Great Britain trading to the South seas and other parts of America, and for managing the fishery, filed 16*th December*, 1825.

Say they have caused to be searched their several books in which are entered the accounts of proprietors entitled or interested in South Sea stock, and they find that on the 9th of August, 1824, the time of the decease of Matthias Aspden, in said bill of complaint mentioned, there was standing in the name of the right honorable Matthias Aspden, of Philadelphia, in North America, the sum of £5,000 South Sea stock; but whether the said Matthias Aspden, in the books of defendants named as aforesaid, is the same person as is mentioned in the said bill of complaint, and therein called Matthias Aspden, of King street, Holborn, London, deceased, defendants do not know, nor can they set forth as to their knowledge, remembrance, information, or belief.

Say said sum of £5,000 South Sea stock is now standing in the name of the said right honorable Matthias Aspden in the books of these defendants. And defendants say they are strangers to, and know nothing of, the several other matters and things by said complainants' said bill of complaint inquired after; and they are ready and willing to act in the premises as this honorable court shall direct, on being indemnified and paid their costs.

Deny combination, &c.

Joint and several answer of defendants, Messrs. Hoare, taken on the oath of defendant, Henry Merrick Hoare, 7th March, 1827, *and without oath or signature as to other partners, by order of* 21*st August*, 1826, *filed* 28*th April*, 1827.

Say they have been informed and believe that testator, Matthias Aspden, was formerly a merchant of Philadelphia, and that he did quit that country at the time in said bill mentioned, and that he resided in this country from that time, and kept his banking accounts with defendants from the year 1789 until the time of his death; but they say they cannot set forth accurately, of their own knowledge respectively, anything as to the intervals when testator visited America, or whether he went thither to settle his affairs in America, or for any other purpose in particular, but believe testator did always return to this country as to his home after such affairs or purposes were settled or accomplished.

Admit that they have been informed and believe, that testator did, during such residence in this country as his domicil, from time to time, invest several sums of money in the purchase of stock and annuities in the funds of this country, and also in the funds of the East India com-

pany and South Sea company, and likewise in or upon American, French, and Spanish funds and securities; but defendants say they are unable to set forth in what other public company or companies in particular, or in what other security or securities in particular, said testator did invest any sums of money, and say they have set forth in schedule A to this answer, which they pray may be taken as part thereof, all the knowledge and information which they possess of investments made by testator in different funded securities. Say they admit that testator died on 9th August, 1824, as in the bill mentioned, and that at the time of his death he was resident in King street, Holborn, London. And they have been informed, and believe, he was domiciled in this country.

Say they have been informed, and believe, that said testator was, in his lifetime, and at the time of making his will and codicils, possessed of a very considerable property in the English and American, and also in the French and Spanish funds, but to what extent, either in any of the said funds or of what other kinds of personal estate and effects, or to what amount in the whole, defendants are utterly unable [to] set forth, further than as appears in the aforesaid schedule A.

Say they have been informed, and believe, that said testator did, in his lifetime, duly make and execute his will and three codicils thereto, in writing, dated on or about 6th of December, 1791, as in bill mentioned, and that such will and codicils are in the words and figures in said bill mentioned; but for greater certainty, defendants refer to the probate thereof when produced, &c.

Say they cannot set forth, by their own actual knowledge, whether testator did ever, or in what manner, alter or revoke his said will and codicils, or any part thereof; or whether he did or not die without any or what issue, or whether he had ever been married. But defendants say they have always understood, and believe, that testator was never married.

Say they have been informed, and believe, that Henry Nixon, in the said bill named, has duly proved said will and codicils in the proper court at Philadelphia, in America, and that he has also duly proved the same in the proper court in this country, and that he has obtained probate thereof from the prerogative court of the Archbishop of Canterbury, and thereby become the legal personal representative of testator.

Admit they had money to the amount of £790 3 5 belonging to testator in their hands, and that they have, since his death, received on his account further £315, being two dividends on his East India stock paid into their hands by defendants, Williams and Sterling.

Say they were bankers to testator for thirty-four years and upwards, immediately previous to his death, and that said £790 3 5 was the balance due to testator, in their books, at the time of his death. But defendants say that the sum of £790 3 5 and £315 have been considerably diminished by payments made on account of testator's estate since his death; and that they have added the items of the said payments in a schedule B, which they pray may be taken as part of their

answer; and that £228 1 11 was the balance in their hands due to the estate of testator on the 31st of July last, (1826,) which balance these defendants have since paid into the bank, with the privity of the accountant general, to credit of cause, pursuant to an order dated 31st July last.

Say they are strangers to, and wholly ignorant of, the several matters and things inquired after by the said complainant.

And they deny combination, &c.

(A.)

The schedule referred to in the annexed answer, containing an account of the funded property of the testator, come to the knowledge of the defendants, Messrs. Hoare, his bankers, and list of sundry documents in their hands relating thereto:

ENGLISH FUNDS.

£3,000 East India stock standing in testator's name, described as "Matthias Aspden, of Richmond, Surry, esquire," with the dividends due thereon from July, 1825, Messrs. Williams and Sterling having received the two previous dividends, as appears in the annexed schedule (B.)

£5,000 South Sea stock standing in testator's name, described as "the right honorable Matthias Aspden, of Philadelphia, in North America," with the dividends due thereon from July, 1824.

French Funds.

Inscriptions of five per cent. rentes or tiers consols.

Date.		Number.	Sum in francs.
20th of Meinder, 10th year of Republic,			
8th July,	1802,	1,109	900
14th - -	1814,	3,022	500
10th January,	1815,	3,046	600
Same date	- -	3,047	500
15th - -	1817,	22,861	2,000
5th May,	1818,	25,621	1,500
31st December,	1818,	29,366	1,000
6th May,	1819,	31,947	578
13th May,	1819,	3,139	500
6th May,	1819,	31,956	422
1st October,	1819,	34,069	270
22d May,	1820,	37,689	1,230
20th October,	1820,	39,658	325
16th November,	1821,	44,217	890
7th May,	1822,	46,610	345
27th November,	1822,	48,807	340
6th September,	1823,	52,629	340

pany and South Sea company, and likewise in or upon American, French, and Spanish funds and securities; but defendants say they are unable to set forth in what other public company or companies in particular, or in what other security or securities in particular, said testator did invest any sums of money, and say they have set forth in schedule A to this answer, which they pray may be taken as part thereof, all the knowledge and information which they possess of investments made by testator in different funded securities. Say they admit that testator died on 9th August, 1824, as in the bill mentioned, and that at the time of his death he was resident in King street, Holborn, London. And they have been informed, and believe, he was domiciled in this country.

Say they have been informed, and believe, that said testator was, in his lifetime, and at the time of making his will and codicils, possessed of a very considerable property in the English and American, and also in the French and Spanish funds, but to what extent, either in any of the said funds or of what other kinds of personal estate and effects, or to what amount in the whole, defendants are utterly unable [to] set forth, further than as appears in the aforesaid schedule A.

Say they have been informed, and believe, that said testator did, in his lifetime, duly make and execute his will and three codicils thereto, in writing, dated on or about 6th of December, 1791, as in bill mentioned, and that such will and codicils are in the words and figures in said bill mentioned; but for greater certainty, defendants refer to the probate thereof when produced, &c.

Say they cannot set forth, by their own actual knowledge, whether testator did ever, or in what manner, alter or revoke his said will and codicils, or any part thereof; or whether he did or not die without any or what issue, or whether he had ever been married. But defendants say they have always understood, and believe, that testator was never married.

Say they have been informed, and believe, that Henry Nixon, in the said bill named, has duly proved said will and codicils in the proper court at Philadelphia, in America, and that he has also duly proved the same in the proper court in this country, and that he has obtained probate thereof from the prerogative court of the Archbishop of Canterbury, and thereby become the legal personal representative of testator.

Admit they had money to the amount of £790 3 5 belonging to testator in their hands, and that they have, since his death, received on his account further £315, being two dividends on his East India stock paid into their hands by defendants, Williams and Sterling.

Say they were bankers to testator for thirty-four years and upwards, immediately previous to his death, and that said £790 3 5 was the balance due to testator, in their books, at the time of his death. But defendants say that the sum of £790 3 5 and £315 have been considerably diminished by payments made on account of testator's estate since his death; and that they have added the items of the said payments in a schedule B, which they pray may be taken as part of their

answer; and that £228 1 11 was the balance in their hands due to the estate of testator on the 31st of July last, (1826,) which balance these defendants have since paid into the bank, with the privity of the accountant general, to credit of cause, pursuant to an order dated 31st July last.

Say they are strangers to, and wholly ignorant of, the several matters and things inquired after by the said complainant.

And they deny combination, &c.

(A.)

The schedule referred to in the annexed answer, containing an account of the funded property of the testator, come to the knowledge of the defendants, Messrs. Hoare, his bankers, and list of sundry documents in their hands relating thereto:

ENGLISH FUNDS.

£3,000 East India stock standing in testator's name, described as "Matthias Aspden, of Richmond, Surry, esquire," with the dividends due thereon from July, 1825, Messrs. Williams and Sterling having received the two previous dividends, as appears in the annexed schedule (B.)

£5,000 South Sea stock standing in testator's name, described as "the right honorable Matthias Aspden, of Philadelphia, in North America," with the dividends due thereon from July, 1824.

French Funds.

Inscriptions of five per cent. rentes or tiers consols.

Date.		Number.	Sum in francs.
20th of Meinder, 10th year of Republic,			
8th July,	1802,	1,109	900
14th - -	1814,	3,022	500
10th January,	1815,	3,046	600
Same date - -		3,047	500
15th - -	1817,	22,861	2,000
5th May,	1818,	25,621	1,500
31st December,	1818,	29,366	1,000
6th May,	1819,	31,947	578
13th May,	1819,	3,139	500
6th May,	1819,	31,956	422
1st October,	1819,	34,069	270
22d May,	1820,	37,689	1,230
20th October,	1820,	39,658	325
16th November,	1821,	44,217	890
7th May,	1822,	46,610	345
27th November,	1822,	48,807	340
6th September,	1823,	52,629	340

22d January,	1824,	53,972	350
15th July,	1824	55,936	231
Same date - - -		55,939	119

One certificate of Messrs. Lafitte & Co., bankers, of Paris, that they hold the inscriptions of two actions of the Bank of France, which are registered letter H, fo. 6,021, and two attested copies, one of six, the other of four, making together ten actions of the Bank of France. Messrs. Lafitte & Co. also state that they have a balance of 27,623 francs in their hands.

American funds.

Twelve certificates of American stock of the United States, bearing 3 per cent. interest; the first eight of which are from the Treasury of the United States, and the remaining four are from the United States loan office, Pennsylvania.

Date.		Number.	Sum in dolls. and cts
2d September,	1795,	2,473	2,986 49
		11,058	1,000 00
		11,059	1,000 00
15th June,	1796,	11,060	1,000 00
		11,061	1,000 00
		11,062	1,000 00
Same date		11,063	338 68
17th June,	1796,	11,073	1,952 54
6th September,	1800,	1,562	2,500 00
Do.		1,563	2,500 00
22d August,	1803,	3,697	3,000 00
10th October,	1803,	3,758	1,800 00

Receipt and guarantee for five shares of the United States Bank stock, standing in the name of Timothy Jurland, certificate No. 36,477, for three shares, and 36,479, for the other two shares, at £121 per share, purchased of Messrs. Robson and Gell for £605. Receipt and guarantee for two shares of the same bank stock, standing in the name of Priscilla Bevan, certificate No. 26,607, at £119 10 per share, purchased of John Capper for £239, on the 30th of April, 1807. Certificate of James Camerford, notary public, dated 8th July, 1805, that he had ent to America six certificates of the funded 8 per cent. stock of the United States, all dated 26th May, 1804, and bear interest from 1st April, 1804, issued from the United States loan office for New York, and granted to Robert Henderson, of Claigshead, county Dumfries, in North Briton, by James Nicholson, commissioner of loans for the said State, and numbered, respectively, 1,259, and 3,909 to 3,913, inclusive; the first being for 1,000 dollars, and the remaining five for 400 dollars each, making in the whole 3,000 dollars.

Spanish funds.

Fifty Spanish bonds of 100 piastres or dollars each, at 4s. 3d. per

dollar, numbered, respectively, 115,916 to 115,965 inclusive, dated Madrid, 1st November, 1820.

(B.)

The schedule referred to in the annexed answer, containing the testator's account with the defendants, Messrs. Hoare, his bankers.

9th August, 1824. Cash in the defendants, Messrs. Hoares' hands, at the time of testator's death, being the balance of the banking account with them				£790	3	5
22d October, 1825. Cash since received on his account, by payments of the defendants, Williams & Sterling, being two dividends on the testator's £3,000 East India stock, due 5th July, 1825				315	0	0
				1,105	3	5
Deduct the following payments, made since testator's death by Messrs. Hoare, viz:						
To Mrs. Elizabeth Nunn, being her bill for rent for testator's lodging, and for necessaries furnished by her for him	£20	5	5			
To Messrs. Simmons & Page, undertakers, being their bill for testator's funeral	89	1	4			
To Messrs. Blake & Co., solicitors, for business done in testator's affairs	26	12	3			
To Mr. James Davies, apothecary, for medicines, &c., for testator	25	0	0			
To Messrs. Farquhar, Sladen & Glennil, proctors, for probate of testator's will	715	17	10			
To postage of letters on testator's account	0	4	8			
				877	1	6
Balance paid into the bank, as above stated				£228	1	11

The answer of defendant, Nixon, to amended bill. Sworn in Philadelphia, 17th March, 1828, and filed 29th April following.

States he had been informed, and believed, that testator, Matthias Aspden, was described in the books of the governor and company of the Bank of England, as the proprietor of £10,000 3 per cent. consolidated bank annuities, by the name and description of Matthias Aspden, of Philadelphia, North America, esquire; and that, as the proprietor of £5,000 South Sea stock, he was described in the books of the South Sea company as the right honorable Matthias Aspden, of Philadelphia, in North America; but, for greater certainty as to the description of said Matthias Aspden in the said books, this defendant craves leave to refer thereto, when produced. And saith, that, save as aforesaid, and in his said former answer mentioned, defendant does not

know, and cannot answer, as to his belief or otherwise, whether testator did reside and was domiciled in this country, or in any other country, until the time of his death, or until any other period, except at the intervals in the said bill in that behalf mentioned, or at any other intervals, save and except as appears by the facts herein and in this defendant's former answer stated or referred to.

Saith that George Roberts and Abram Liddon, in the bill of the testator, and in defendant's former answer, respectively named, both resided at Philadelphia, in the United States of America, and that they both died there. And defendant doth not know, and cannot answer, as to his belief or otherwise, whether the said testator was, or whether he did believe himself to be, entitled to considerable, or any, real estate in England; however, defendant does not believe that testator did, at the time of making his will and codicil in said bill mentioned, believe himself to be entitled to any real estate in England; but defendant believes that testator did then believe himself to be entitled to some real estate in America. And defendant does not know same of his own knowledge, but has been informed and believes, that testator did depart this life without leaving any brother or sister of the whole blood, or of the half-blood, him surviving; and that he did leave descendants of the half brothers and sisters on the mother's side, and descendants of a half-sister of the father's side, him surviving; but defendant denies, to the best of his knowledge, information, and belief, that said testator's half-sister on his father's side was illegitimate. And defendant believes that Esther Hartley, another defendant to said bill, does claim to be one of the next of kin and heirs-at-law of the said testator, according to the laws of the State of Pennsylvania in said bill mentioned; and that the laws of said State touching the descent and inheritance of real and personal property, are as in the said amended bill and defendant's former answer in that behalf mentioned. And that said Esther Hartley, in the characters in the said amended bill in that behalf mentioned, does claim, on behalf of herself and others, to be entitled under the will of said testator to the residue of his personal estate and effects, and to the legacy of £100 in the said bill mentioned; and that she is one of the children of Benjamin Hartley, in the said will of said testator named; and that the said Esther Hartley is in America, out of the jurisdiction of this honorable court. And defendant submits to the judgment of this court whether, upon the true construction of the said will of the said testator, the said complainant is entitled to the residue of the personal estate and effects of the said testator under the said will, as the heir-at-law of the said testator, or in any other character. Without this, that, &c. Denies combination, &c.

Bill of revivor by Jennet Jones, otherwise Jenet Jones, of Old street, in the parish of St. Luke, in the county of Middlesex, widow, and Thomas Poole, of Chequer court, Old street, in the same parish, and Mary, his wife; filed 17th of March, 1828.

States the original bill, and that said several defendants to the said

bill appeared and put in their answers thereto; and that the said bill was, by virtue of an order made the 28th of May, 1827, amended, and Esther Hartley made a defendant thereto, but that no further proceedings had been had in the said suit. That the said plaintiff, John Aspden, afterwards, and on or about the 22d day of February, 1828, departed this life, a widower, and intestate, leaving plaintiffs, Jenet Jones and Mary Poole, his only children him surviving, who are his only next of kin and his co-heiresses. And that they, on the 11th March, 1828, obtained letters of administration of the goods and chattels, debts and credits, of the said intestate, to be granted to them, by and out of the prerogative court of the Archbishop of Canterbury, and, by virtue thereof, become and are his personal representatives; and that they are entitled to all the benefits which the said intestate was entitled to, under and by virtue of the will of the said testator, Matthias Aspden. That the said suit and proceedings had become abated by the death of the said John Aspden; and that plaintiffs, (Jones, Poole and wife,) are advised that they are entitled to have the said suit and proceedings revived against the said defendants, and to be put in the same plight and condition as the same were in at the time of the abatement thereof. Therefore pray subpœnas to revive against all said defendants to original and amended bills.

Statement of facts.

An injunction, as prayed, was granted on 9th August, 1825, previous to the coming in of any of the answers against the defendants, Williams and Sterling, (who were acting under a power of attorney from Nixon, the executor;) and the said defendants, the Bank of England, the East India and the South Sea companies.

The affidavit of plaintiff, John Aspden, (then aged 85 and upwards, and who is since deceased,) on moving for the injunction, states that deponent was heir-at-law of Matthias Aspden, esquire, the testator, and in proof thereof saith, that Thomas Aspden, of Simondstone, in Lancashire, was the common ancestor, and died before birth of plaintiff, having had issue several children, the eldest of whom was John Aspden, plaintiff's grandfather, who died in 1754, (and was buried at Deptford, in Kent,) leaving issue an only son, Andrew Aspden, plaintiff's father, who died (and was buried at Deptford,) in September, 1771, leaving plaintiff his only child and issue living at his death. And that the testator's father was Matthias Aspden, third son of said Thomas Aspden, the common ancestor; and that *that* the said Matthias, the father, emigrated to America many years ago, and being resident in Philadelphia, married there an American whose christian name was Rebecca, (as deponent had heard and believed,) and had issue by her an only child, the testator; and that said Matthias, the father, died in 1765, at Philadelphia, leaving testator his only lawful issue him surviving, and who died without issue, and a bachelor, in August, 1824; and that plaintiff perfectly well recollected both his said

grandfather and father, and also said testator, and his (testator's) father; and one Margery Bailey, widow, who was a sister of said Mathias, testator's father, and of plaintiff's said grandfather, and was the great aunt; and that said Margery Bailey lived to an advanced age, and died many years ago.

An affidavit was also made on the above occasion by plaintiff's solicitor, (Mr. Gregson,) which states the funds in the hands of the several defendants, (as in the bill;) and that from time of testator's death deponent had made diligent investigations and inquiries, with a view of ascertaining his next of kin and heir-at-law; and, from the result of such inquiries, deponent verily believed that plaintiff was such heir, and that, by testator's will and codicils, he gives his estate, real and personal, to his heir-at-law, subject to the small legacies to his half-brothers and sisters, &c.; and that said will had been proved in the prerogative court of Canterbury, on 27th July, 1825, by defendant Nixon, who was stated to be president of the old bank North America, and as such the surviving executor; and that testator died in England, which was his fixed and settled place of residence for many years previous and up to his death, as deponent had been informed and believed; and that said Nixon was resident in Philadelphia, &c.

Upon the answers of defendants, the bank, East India and South Sea companies, coming in, plaintiff applied, by motion and petition, to have the stocks transferred into court, under the act of 6th Geo. 4th, ch. 74; but the applications were opposed, defendants contending that the executor was not a trustee, within the meaning of the act, and were foiled by defendant Nixon's solicitors appearing for him at the time of the petition was heard, thereby bringing him within the jurisdiction of the court.

An order was, however, ultimately obtained for transfer of the funds into court, but which has not yet been complied with, except as to defendants, Messrs. Hoare, who paid their balance of £228 1 11 into court on the day of , 182 . The executor, Nixon, declined to make the transfer, and the bank solicitor contended that the case was not within the meaning of the act.

In support of these applications the following affidavits, as to the testator's identity and domicil, were filed:

Mr. Wm. Willoughby (Messrs. Hoare's cashier, since dead) stated that he was well acquainted with testator for 30 years; identified him as the holder of the several stocks as to which he is described of various residences in London.

John Joseph Jones (auctioneer) stated that he was well acquainted with testator for 20 years immediately previous to his death, and identifies him as the stockholder.

And the affidavit of Mrs. Elizabeth Nunn (with whom testator lodged in King street, Holborn, at time of his death) states, that she was well acquainted with him from October, 1817, and has frequently heard him observe, and has always understood and believed, that he was formerly a merchant in Philadelphia, and that he came to reside in this

country a great many years ago, at the commencement of the revolution in America.

The original plaintiff, John Aspden, died a widower and intestate, in February, 1828, at the advanced age of nearly 90, and the present plaintiffs are his two daughters, Mrs. Jones and Mrs. Poole, and her husband, who revived the suit, but have not gone into evidence.

The answers have been replied to.

Until the defendant, Nixon's, answer was filed, it was not known to plaintiff that the laws of Pennsylvania differed from those of this country as to heirship; and had it not been so, it is quite clear that the American claimants, being all of the half-blood, could not take as heir.

The question, however, now turns on the testator's domicil, and there is little doubt but that he was domicil[ed] in England. He resided in this country, principally in London, where and at Richmond he kept a house and establishment for many years, ever since the year 1776, and had no other residence or home from that time to the period of his death. He made his will in America, it is true, and deposited it there, but then it was in consequence of his being about to embark on his return to this country, in the year 1791, when the bill was amended, by making Esther Hartley, (one of the next of kin of the half-blood,) resident in America, a defendant. The solicitors for defendant, Nixon, gave an undertaking to appear for her, and the proceedings in the cause were delayed a long time for her answer, when, at last, defendant, Nixon's, solicitors admitted they had no instructions from her. Plaintiff was therefore obliged to close the pleadings without her answer.

A suit has been instituted in Philadelphia by Samuel Packer, another of the next of kin, against Nixon, the executor; and on the 18th May, 1829, a reference decreed to the master to examine and report who are all the heirs and next of kin of the said testator.

Observations.

There is no doubt but that sufficient evidence can be advanced, if a reference can be obtained to the master, or an issue directed to establish the facts, that the original plaintiff, John Aspden, deceased, was the testator's heir-at-law, and that the testator's domicil was in this country; and, as such, it is hoped the court will direct such an inquiry, notwithstanding the plaintiff has not gone into evidence. The plaintiff was in an imbecile state, (being nearly 90 years of age) for some time prior to his death; and his two daughters could not raise funds sufficient to meet the great expense which would be requisite in executing commissions, and for examination of witnesses. But this can now be accomplished in the master's office, if a reference can be obtained; and the defendants, except Nixon, might be paid their costs, dismissed the suit on transferring the funds into court, and Messrs. Hoare depositing the documents in their hands in the master's office.

It will be observed that the testator doubts his legitimacy in his will, which is explained by defendant Nixon in his answer, as alluding to testator's birth previous to the marriage of his father and mother.

Now, if he had meant to give his property to his half-brothers and sisters, he would have avoided any mention of this fact, and given it to them by name; and had he meant them to take his property, he would not have given them small legacies.

The Crown is, therefore, interested, and, in case a reference is refused, the court will, we trust, prevent the executor's having the property out of this country, till the rights of the parties are ascertained.

The opinions of counsel are very strongly in favor of the claim of the heir-at-law in the construction of the will.

The defendant Nixon is personally interested in withdrawing the funds from this country, as he is entitled to a commission thereon if administered in America.

Endorsed.

(V. C.)—In chancery.

ASPDEN
vs.
NIXON & others.
Revived
JONES & others
vs.
Same.
} Brief for plaintiffs.

For Mr. Milford, guas.,
For a consultation with the solr. genl. $\frac{1}{4}$ past 9, one gua.
July 13, 1830.

Stands 8 in his honor's paper for Wedy., 14th July.
Bill dismissed with costs.

S. F. MILFORD.

July 17th, 1830.

GREGSON, *Temple*.

Bill of revivor by Samuel Packer vs. Joseph Trotter, administrator de bonis non cum testamento annexo, of Matthias Aspden, deceased.

Be it remembered, that aftewards, to wit, on the tenth day of September, in the year of our Lord one thousand eight hundred and forty-one, the bill of revivor of the said complainant is presented by his solicitor, Thomas A. Budd, esquire; which bill, being read and filed, is in the words and of the tenor following, to wit:

In the circuit court of the United States, for the eastern district of Pennsylvania, in the third circuit, of April sessions, 1828, No.

SAMUEL PACKER, a citizen of the State of New Jersey,
vs.
HENRY NIXON, a citizen of the State of Pennsylvania, executor of the last will and testament of Matthias Aspden, deceased.
} In equity.

To the honorable the judges of the circuit court of the United States, in and for the eastern district of Pennsylvania, in the third circuit.

Humbly complaining, showeth unto your honors, your orator, Samuel Packer, a citizen of the State of New Jersey, that on or about the of , in the year of our Lord one thousand eight hundred and twenty-eight, your orator exhibited his original bill in this honorable court against Henry Nixon, executor of the last will and testament of Matthias Aspden, deceased, as the defendant thereto, thereby stating several matters and things as are therein for that purpose more particularly set forth; praying, &c. And your orator further showeth, that the said defendant, being duly served with process of subpœna, appeared, and put in his answer to the said original bill, as in and by, &c. And your orator further sheweth, that your orator afterwards obtained an order of this honorable court to amend his said original bill, and that the said defendant, Henry Nixon, might answer the said amendments, and your orator did accordingly exhibit his amended bill, stating the several matters and things therein set forth, and praying, &c.; and the said defendant, Henry Nixon, put in his amended answer thereto, as in and by, &c. And before any other or further proceedings were had in the said cause, the said defendant, Henry Nixon, departed this life; and your orator further sheweth, that after the death of the said Henry Nixon, to wit, on the day of , in the year of our Lord one thousand eight hundred and forty-one, letters of administration de bonis non cum testamento annexo of the said Matthias Aspden, deceased, were granted by the register of the probate of wills for the city and county of Philadelphia, to Joseph Trotter, esquire, of the city of Philadelphia, who hath taken upon himself the burthen of the execution thereof. And the said suit and proceedings having become abated by the death of the said Henry Nixon, your orator is informed that he is entitled to have the same revived against the said Joseph Trotter, administrator as aforesaid.

To the end, therefore, that the said bill and answer, and the amendments thereto, and other proceedings thereupon had, may stand revived against the said Joseph Trotter, administrator as aforesaid, as defendant, and be in the same plight and condition as the same were at the time of the abatement thereof, may it please your honors to grant unto your orator a writ of subpœna to revive, issuing out of this honorable court, to be directed to the said Joseph Trotter, administrator as aforesaid, thereby commanding him at a certain day, and under a certain penalty to be therein limited, personally to be and appear before your honors in this honorable court, and then and there shew cause, if any he can, why the said suit and proceedings therein had should not stand and be revived against him, and be in the same plight and condition as the same were in at the time of the abatement thereof. And further to stand and abide such order and decree in the premises as to your honors shall seem meet; and your orator will ever pray, &c.

THOMAS A. BUDD,
Complainant's solicitor.

Petition of John Aspden, of Lancashire.

Afterwards, to wit, on the same day, the petition of John Aspden, of Lancashire, England, is presented, by his solicitor, James M. Broom, esquire; which petition, being read and filed, is in the words and of the tenor following, to wit:

To the honorable the judges of the circuit court of the United States, in and for the eastern district of Pennsylvania, in the third circuit.

The petition of John Aspden, a subject of the Queen of the united kingdom of Great Britain and Ireland, respectfully sheweth: That on the 26th day of November, A. D. 1831, your petitioner presented a petition to this honorable court, setting forth that he firmly believed he was entitled, as heir at-law and residuary devisee, to the residue of the estate devised in and by the will of Mathias Aspden, deceased, of which will Henry Nixon appeared in this court as executor, to a bill filed against him on the equity side thereof by Samuel Packer, No. 1, to April sessions, 1828, and praying, &c. That the said Henry Nixon hath departed this life; and that afterwards, to wit, on the day of , A. D. one thousand eight hundred and forty-one, letters of administration de bonis non cum testamento annexo of the said Mathias Aspden, were granted by the register of the probate of wills, &c., for the county of Philadelphia, to Joseph Trotter, esq., of the city of Philadelphia, who hath taken upon him the burthen of the execution thereof. And the said suit and proceedings having become abated by the death of the said Henry Nixon, the said Samuel Packer hath exhibited his bill to revive the same against the said Joseph Trotter, administrator as aforesaid. Your petitioner therefore prays, that he may be admitted on the record as a party to the said revived suit, for the purposes set forth in his original petition. JOHN ASPDEN,
By his solicitor, JAMES M. BROOM.

Reference to master to take the testimony of Joseph Fox.

Afterwards, to wit, on the eleventh day of April, in the year of our Lord one thousand eight hundred and forty-two, on motion of Mr. Hirst, it is referred to T. I. Wharton, esquire, to take the testimony of Joseph Fox, an infirm witness, on behalf of Packer et als., claimants and parties.

Report of master with deposition of Joseph Fox.

Afterwards, to wit, on the ninth day of June, in the year last aforesaid, the said master presents his report, with the deposition of the said Joseph Fox; which report and deposition, being read and filed, are in the words and of the tenor following, to wit:

In the circuit court of the United States, in and for the eastern district of Pennsylvania, in the third circuit.

PACKER et al.
vs.
NIXON'S EXECUTORS.

In equity, April session, 1828. No. 1.

To the honorable the judges of the circuit court of the United States, for the eastern district of Pennsylvania, &c.

I respectfully certify and return, that having given due notice to the solicitors for the complainant and defendants, and for the several parties in the cause, I did, pursuant to the order of the court made in this cause, on the eleventh day of April last, take the deposition of Joseph Fox, an infirm witness, on behalf of Packer et al., claimants and parties, at my office No. 150 Walnut street, in the city of Philadelphia, on Monday, the twenty-third day of May, instant, between the hours of four and seven o'clock in the afternoon of that day; which deposition, so taken, is hereunto annexed.

T. I. WHARTON, *Examiner*.

May 24th, 1842.

Depositions of witnesses produced, and affirmed, and examined, at the office of Thomas I. Wharton, No. 150 Walnut street, in the city of Philadelphia, on Monday, the twenty-third day of May, A. D. 1842, between the hours of four and seven in the afternoon of that day, by the said Thomas I. Wharton, an examiner appointed by the circuit court of the United States, in and for the eastern district of Pennsylvania, in a certain cause there depending, between Packer et al., complainants, and Nixon's executors, defendants, pursuant to the annexed order of the said court:

Joseph Fox, senior, of the city of Philadelphia, aged about seventy years, being duly affirmed on the part of certain of the parties claiming to be next of kin, deposes as follows:

I was perfectly acquainted with Matthias Aspden in his lifetime, from before the old revolution in France up to 1816. I knew him to be the person before the revolution, but in 1792 I knew him by his taking hold of me and preventing me drowning in the river Delaware; old Mr. Kane, the old experienced ferryman, was the one that rowed the boat while he picked me up. I had a conversation with Mr. Aspden about his domicil or citizenship; it was in presence of John Dunlap, the printer of the American Daily Advertiser, and the conversation took place in 1792, about May, I think; he said that he was a citizen of Philadelphia; as long as his father and mother's bones were in the county he should consider himself as such. He said that he wished, if he died in England or any part of Europe, that he might be brought home and buried where his uncles and aunts *was;* "my full-blood heirs" he called them, and "half-blood heirs." The Packers he called full-blood, and the Hartleys half-blood. A few days afterwards Thomas Mifflin, called General Mifflin, Mr. Dallas, afterwards secretary of the commonwealth, Matthias Aspden, and myself, were sitting at a round table in the upper room of Dunlap's printing office, in Market street, below Second; I served my apprenticeship there; I heard the conversation; Dunlap was present; he asked Aspden which of them he

was going to leave his property and money to when he died. General Mifflin laughed; says he, "he has got some pretty girls, relations of his; he will never let them suffer." "Who are they?" said Dunlap. Aspden then turns round suddenly and told them they were the Packers of New Jersey; "they are my heirs-at-law, and will receive all my real and personal estate at my decease, excepting a few legacies that go to my half-brother's heirs." James Hartley, he mentioned; I never shall forget the moment; there was Aspden, and General Mifflin, and Dunlap, each with a cocked hat on, and I was a young man; I was not free then of my time. Dunlap saw me laugh, and it set them all laughing to see me laughing at the cocked hats; Dunlap, to punish me for laughing, sent me out with a cocked hat on to go on an errand. In 1816 I had another conversation with him on the subject of his citizenship; he had let me know all along, until this time, who were his heirs, and if any one had called upon me they should have had it. He told me in 1816, that when he was a little boy about twelve years old he was kicked by a horse in New Jersey, which brought on a weakness which remained through life, and he was fearful that his end was coming in consequence of that weakness getting ahead of him. In his elder days he had felt it more sensibly. The reason why he took so many journeys across the sea, he said, was for his health; he never thought, he said, of leaving the country, or making a domicil any where else except Philadelphia. He said that he never would have given five hundred pounds to General Mifflin to clothe the troops, if he had intended to join the English. "My countrymen *has* my warmest thanks for the freedom that was obtained." I some time after that saw General Mifflin, and asked him if that was the case; that is, that he let him have five hundred pounds to clothe the troops. He said yes, that that was the case, but no one knew it but one man, viz., Robert Morris, that is, besides Aspden and myself. I am now speaking of 1816. At the same time he said, "Joseph, if you live to see my decease, I want you to retain on your mind what I am going to tell you;" I shall give his own words exactly as he said them to me. He said, " now of my family and connexions: Daniel and Rebecca Jones had one child only; her name was Rebecca; she married Philip Packer; they had six children; one of them was named Rebecca; she married Roger Hartley; Roger Hartley had seven children; they all died but one. Rebecca, the daughter of Philip Packer, after she became a widow, married Matthias Aspden, [the father of the testator,] and I am their only child. Now," says he, "Joseph, these Packers, the descendants of my uncles and aunts, are my only heirs-at-law;" "blood heirs" he called them. "My half-blood, the Hartley's, will receive legacies; and if there is one pound of flesh alive of my uncles and aunts, of my mother's blood, it shall be my heir-at-law. No doubt," he said, "there are many, as they are good breeders." "Now," he says, "all my real and personal estate I leave at my decease must go towards or to my uncles' and aunts' children; I have no other heirs in the world; neither in England, Ireland, or Scotland. It is all a fudge; for my grandfather was a Frenchman,

and my grandmother was one of the handsomest women in Canada—half Indian. My father spoke French; it was a French name, and he married a Canada woman." Mr. Aspden and I had a hearty laugh about it. He said that when he was in England people thought they were heirs of his; and so it was in France and Canada, and he really thought it was his money. We had a particular talk about his papers at that time, viz., in 1816, a very remarkable talk; it was the same day; he said he never mentioned it in England, but he lost a bag of papers, and if ever there was any difference, or any persons came forward to oppose the Packers getting their proper money, "they must have a good look at my private papers." He said, "If there were anything that would favor another claim, such papers were false." He said, "See to it; I keep no copies nor scraps of paper, nor scratches in the books or Bible, or so on; no letters, no papers, but actual business or commercial papers, must be allowed." I believe there was nothing more said that day. I met him in the street some time after, and he *requested* me in this manner: "I have saved your life, see to making out a tree, and save my property." I have it made out; I have it not with me; my attorney, Mr. Hirst, will produce every thing with it at the proper time. Mr. Aspden said, "with respect to my decease, if I should decease," he said, "you will find it out, and be careful and have the tree made out." He made me promise not to let any thing of this be known, unless before the proper authority, and I have denied people and kept it to myself, until now I lay it before you.

Cross examined by Thomas Aspden on the part of his father, John Aspden.

This conversation took place on the 15th June, 1816, at Arch street ferry. I had made an engagement at Girard's wharf on the 14th to meet him there on the 15th. The pretty girls he alluded to, on the former conversation, were the Packers. I knew them. They were respectable girls. They are now married, and hav*ing* children. Once I think I heard him say that his father was frolicsome in his days. He has said that there were reports in England about some child, supposed to be illegitimate, but there was nothing in it. He had no wife or child, he said, and, under his present circumstances, he could not think of marrying. He had a weakness in the spine. He got the gravel by the kick from the horse. He took the same medicine as I do. I don't know of any other relations in this country. The Packers, he said, were his only heirs. If there were any other heirs, they had nothing to do with it. And this has been repeated to me over and over again. And as to his being a citizen of London, I will never believe it, for he told me that he was a citizen of Philadelphia times without number; that his business was such that he had to go here and there, and that he meant to lay his bones in this country. And I have taken measures lately to have his bones brought here, and put into the yard with his mother and father, and aunts and uncles; mea-

sures have been taken for the purpose, and they, his relations, are expecting to receive his bones. He said many people had said he was unfriendly to the revolution, but he was a friend to freedom all his lifetime. I think he staid in this country until the next spring, but I am not certain.

Cross examined by Mr. McLaughlin for Edward Hartley and Thomas Adams, in right of his wife.

I was acquainted with Mr. Aspden's person and family as far as 1788. In 1792 I became first personally known to him. It was, perhaps, half a year earlier. I continued that acquaintance every period that he was here. I am sure it was four or five times that I saw him between 1792 and 1816. He took tea with me frequently when he was here in 1816. He lodged somewhere in Front street. I met him frequently at taverns, and my house. I believe I know all the Packers, that are claimants here, by countenance. I have known them as long as I can remember. I knew of his decease as long as Bishop White put it on record. I knew it about 1824, I suppose. I delayed a good deal in making the tree. I knew who the uncles and aunts were. He made it for me, or helped me to make it. He made it with chalk on the tavern table, and I made a memorandum from it. I considered it made when he told me. One part was made about 1825, and the other part within a few days, say about January last. He ordered me to make out one, and I took my time to make it out right. It also has the Hartleys, whoever they are, and they will find no fault with it. A short time after, I heard that the will was put on record. I informed Edward Packer, and concluded, if he wanted testimony, I would be called on. He died in the street, and I wondered that I was not called upon. That might have been about a year after the will was put on record. The will was put on record about 1824 or 1825. I gave them full knowledge, and supposed they would have used it. I don't think I told any other of the Packers. I might have done it. Latterly I might have done it. (There was a man named Richard C. Aspell, who was a surveyor for me.) Of course Mr. Hirst is my attorney in this cause, and another lawyer, Mr. Isaac Norris. They are my attorneys in this cause in which I am giving testimony. I am not in any way interested at all. I have employed attorneys so far as to commence operations at law for the Packers. I was entrusted by the Packers so far as to employ attorneys, and I employed them. I don't recollect the first names of the Packers who have employed them, but I will furnish a list of their names to the counsel. There are about sixty of them. There is a paper in my possession, signed by them, giving me authority to employ two attorneys. I have it not here. You can have it whenever you please. It is recorded in the recorder's office. It was recorded about last January, or perhaps a year back. It is an agreement for me to do so. There is one other paper between me and them. For fear that I might be

counted interested, I have sent it all back to them—conveyed it back, excepting the appointment of lawyers. I conveyed back all my right and interest that I might have had in it. I expect nothing, and advanced nothing, and have no interest in it. That conveyance is in writing. It is acknowledged before a magistrate, and if not recorded it will be. I speak of the reconveyance. It was about six months ago I put this reconveyance into the hands of a clerk and one of the Packers. His name is William Butcher. He is a stove manufacturer. He resides at No. 11, north 11th street. That is my house. He is here this afternoon. I can't say exactly how long ago it was. You can have a copy of it if you come to the house. Mr. Butcher is a son-in-law of mine. He is a clerk of the Packers, and is ordered by them to show it to you, or to the court whenever they want it. There are no other papers in Mr. Butcher's hand respecting this matter, except the reconveyance. He is their clerk, and does all their writing, and goes from them to me and from me to them. I act as their agent of free will, and without charge. My preserver, he who saved my life, I will do all I can to save his property. I have never received one cent. I don't ask who is to pay my son-in-law for his services. I don't ask any man that. I make this deposition at my own request, and that all the parties may have the advantage of it. No person has requested me to make this deposition. The Packers pay for the professional services of Messrs. Hirst and Norris in this case. I recommended them to the Packers. I employed them for the Packers. I don't know yet what they are to pay these gentlemen. There is sufficient to pay them with, if the parties get their property. If the Packers don't get the property, they must pay them, to be sure. But they have little doubt about it. I am not in any way related to any of the Packers. Daniel Packer and my father fought hard together at the battle of Germantown, and were both wounded.

Again examined by Mr. Hirst.

To the witness: "You have said that after 1816 you had a conversation with Gen. Mifflin, whereas he died in 1800. Did you mean to say that you saw him in the year you have mentioned?"

Witness. "It was in 1792 that I had the conversation with Gen. Mifflin that I have spoken of."

JOSEPH FOX, Senior.

Deposition taken, reduced to writing, and by the witness subscribed and affirmed to, this twenty-third day of May, 1842, before me.

T. I. WHARTON,
Examiner.

Petition of Thomas Aspden, praying to be admitted a party to the bill of revivor.

Afterwards, to wit, on the third day of April, in the year of our Lord one thousand eight hundred and forty-three, the petition of Thomas

Aspden is presented, which, being read and filed, is in the words and of the tenor following, to wit:

To the honorable the judges of the circuit court of the United States, third circuit, in and for the eastern district of Pennsylvania.

The petition of Thomas Aspden, a citizen of the State of Pennsylvania, respectfully showeth, that, on the twenty-sixth day of November, A. D. one thousand eight hundred and thirty-one, the petition of his late father, John Aspden, (since deceased,) was presented to this honorable court, setting forth that he firmly believed he was entitled, as heir-at-law and residuary devisee, to the residue of the estate devised in and by the will of Matthias Aspden, deceased; of which said will the said Henry Nixon appeared in this court as executor in a bill filed against him on the equity side thereof by Samuel Packer, No. 1, to April session, 1828, and praying, &c.

And your orator further showeth unto your honors, that said Samuel Packer, on the 15th day of June, A. D. 1835, filed his amended bill in this honorable court, in which, among other things, he sets forth that said testator, Matthias Aspden, was, for a long time, resident and domiciled in England. Your orator also expressly avers, that said Matthias, the testator, was resident and domiciled in England for more than forty-eight years up to the time of his death, and at the time of his death; and, as evidence of the same, your orator refers your honors to certain letters, and other documents, in the handwriting of said Matthias, the testator, (some of which *has* been published by an order of court,) reference being thereunto had will appear.

And your orator further showeth, that the said Henry Nixon hath departed this life; and that afterwards, to wit, on the day of May, A. D. one thousand eight hundred and forty-one, letters of administration de bonis non cum testamento annexo of the said Matthias Aspden, deceased, were granted by the register for the probate of wills, for the city and county of Philadelphia, to Joseph Trotter, esq., of the city of Philadelphia, who hath taken upon himself the burthen of the execution thereof. And the said suit and proceedings having become abated by the death of the said Henry Nixon, the said Samuel Packer hath exhibited his bill to revive the same against the said Joseph Trotter, administrator as aforesaid. Your petitioner, therefore, prays that he may be admitted on the record as a party to the said revival suit, for the purposes set forth in his late father's original petition, to whom your orator is his successor, executor, his eldest son, and heir-at-law. And your orator will ever pray, &c.

THOS. ASPDEN.

April 3d, 1843.

Letters testamentary to Thomas Aspden, and a copy of the will of John Aspden, of Lancashire, England.

Afterwards, to wit, on the ninth day of November, in the year last

aforesaid, letters testamentary to Thomas Aspden, and a copy of the will of John Aspden, of Lancashire, England, are presented, which, being read and filed, are in the words and of the tenor following, to wit:

COMMONWEALTH OF PENNSYLVANIA,
City and county of Philadelphia, ss:

By the tenor of these presents, I, John Painter, esq., register for the probate of wills, and granting letters of administration, in and for the city and county of Philadelphia, in the commonwealth of Pennsylvania:

{Seal, Register's office, city and county of Philadelphia.}

Do make known unto all men, that, on the eighth day of February, A. D. 1843, at Philadelphia, before me, was proved and approved, the last will and testament of John Aspden, deceased, by filing a certified exemplification thereof, (a true copy whereof is to these presents annexed,) having, whilst he lived, and at the time of his death, divers goods, chattels, rights, and credits, within the said commonwealth; by reason whereof the approbation and insinuation of the said last will and testament, and the committing administration of all and singular the goods, chattels, rights, and credits which were of the said deceased, and also the auditing the accounts, calculations, and reckonings of the said administration, and absolute care of the same, to me are manifestly known to belong; and that administration of all and singular the goods, chattels, rights, and credits of the said deceased, any way concerning his last will and testament, was committed to Thomas Aspden, one of the executors in the said testament named, he having first been duly sworn well and truly to administer the goods, chattels, rights, and credits of the said deceased, and make a true and perfect inventory thereof, and exhibit the same into the register's office at Philadelphia, on or before the 8th day of March next, and to render a true and just account, calculation, and reckoning of the said administration, on or before the 8th day of February, one thousand eight hundred and forty-four, or when lawfully required; and also to diligently and faithfully regard, and well and truly comply with, the provisions of the act relating to collateral inheritance.

In testimony whereof I have hereunto set my hand and seal of office, at Philadelphia, the 8th day of February, in the year of our Lord one thousand eight hundred and forty-three.

ROBERT F. CHRISTY,
Deputy register.

To all christian people to whom these presents shall come: We, Unwin Clarke, clerk, master of arts, rural dean of all and singular the rural deanries within the archdeaconry of Chester, lawfully authorized, sendeth greeting in the Lord: We certify and make known unto you, by these presents, that having caused our registers and archives to be searched and inspected, it evidently appears thereby, and we find that, on the twenty-first day of July, in the year

Three pounds.

of our Lord one thousand eight hundred and forty-two, the last will and testament of John Aspden, late of Waterfoot, in the township of Newchurch, in the forest of Rossendale, in the county of Lancaster, and within the archdeaconry of Chester aforesaid, deceased, was proved before the Reverend William Gray, clerk, master of arts, our lawful surrogate, the true tenor of which will is as follows:

"This is the last will and testament of me, John Aspden, of Waterfoot, in the forest of Rossendale, in the county of Lancaster, (lately heald yarn manufacturer, but now declined business,) which I make now, whilst I am of sound and disposing mind and memory and understanding.

In the first place, I will and direct that all my just debts, funeral and testamentary expenses, and other incidental charges, shall be fully paid and discharged by my trustees, executors, administrators, heirs, or assigns, hereinafter named; and whereas the bulk or whole of my property consists in money, stocks, or securities, to which I claim to be entitled as heir-at-law to Matthias Aspden, formerly of Philadelphia, in the State of Pennsylvania, one of the United States of North America, but previous and some time before his death of the city of London, which took place in the city of London, in the year of our Lord one thousand eight hundred and twenty-four; and which sum or sums of money, stocks, or other securities have, and are now depending in the district circuit court of Pennsylvania, in an action, Packer and others versus Nixon, executor of Aspden, and which to my knowledge is yet undecided and undetermined, although it was decided in my favor, and judgment given on the 26th day of December, 1833, by the judges of the said court, and ordered the surplus to be paid over to me by the executor of the said Matthias, but which decision was appealed against, and the case remains unsettled. However, it is my will and mind, that as soon as the case is settled and finally determined, that whatever sum or sums of money, or other securities, may be accruing or due to me as heir-at-law, or otherwise, then I direct my attorney to receive the same, and bring or transmit the same to my trustees, executors, administrators, heirs, or assigns, in England, in good and substantial bills of exchange, gold, or in any good and substantial money or moneys, current in Great Britain.

I hereby give, devise, and bequeath unto my beloved son, Thomas Aspden, of Lansdown house, near Philadelphia, in the State of Pennsylvania, my present attorney; my son Abraham Aspden, of or near Rawtenstall, in the township of Newchurch, in the county of Lancaster; and unto my friends, John Ashworth, of Boothfold, minister of the gospel and woollen manufacturer, and Timothy Hoyle, of Rockliffe Wood, yeoman, all and every my said estate, interest, or expected estate or interest, in the premises, as heir-at-law to the residue of the aforesaid Matthias Aspden, either personal or real, of what nature or kind whatsoever or wheresoever, to which I am especially entitled, or which I may, am, or may be, vested in or to me; and other my goods, chattels, and personal estate and effects, of what nature or

kind so ever, (except such as hereinafter specifically or otherwise by me disposed;) and all my estate, and interest therein and thereto respectively; to hold the same unto and to the use of them, the said Thomas Aspden, Abraham Aspden, John Ashworth, and Timothy Hoyle, their heirs, executors, administrators, and assigns, respectively, according to the several natures and qualities thereof; upon the trusts, nevertheless, and to and for the several uses, and interests, and purposes, and under and subject to the powers, provisoes, payments, and purposes hereinafter mentioned, expressed, and declared, of and concerning the same; that is to say, upon trust, that they, the said Thomas Aspden, Abraham Aspden, John Ashworth, and Timothy Hoyle, and survivors and survivor of them, and the heirs, executors, administrators, and assigns of such survivor, do and shall be seized and possessed of all the estate and property vested in me, and to be vested in me, at the time of my decease. Therefore it is my will and mind, and I now hereby direct that my son, Thomas Aspden, shall be first paid for all the time, trouble, and expenses he, the said Thomas Aspden, has or may be at, as my lawful attorney, up to the time of the decision of the aforesaid suit, and all other expenses due for attending to the same from the year of our Lord one thousand eight hundred and twenty-six, to the end of the said suit. And I also give, devise, and bequeath unto my dearly beloved wife, Esther Aspden, the interest of the sum of two thousand pounds, the principal to be invested by my trustees, executors, administrators, or assigns, in some good and sufficient security, for her benefit and behoof, (and in lieu of dower thirds or free bench,) for the term of her natural life; and after her death to be equally divided amongst my children, share and share alike, save and except my son John and daughter Elizabeth. My son John is only to have the interest of his share, and at his decease to be equally divided amongst my sons and daughters, except Elizabeth; and she is only to receive the interest of her share, and the principal, at her decease, to be equally divided amongst her children, share and share alike. And it [is] my will and mind, and I give and bequeath, and charge my estate with the payment of the following bequests: Legacies to all my grandchildren, payable by my trustees, executors, administrators, heirs, or assigns, at the time they shall or may attain the age of 21 years, the sum of fifty pounds apiece; to be paid to them that are past the age of twenty-one years in the space of twelve months after my decease, if practicable; and to the other children that may be under the age of 21 years, as soon as practicable after they arrive at the age of twenty-one. And I give and bequeath unto my brother, Andrew Aspden, of Harley house, near Todmorden, or his heirs, the sum of three hundred pounds. To my brother, Matthias Aspden, or his heirs, I hereby give and bequeath the sum of one hundred pounds. And I hereby give and bequeath unto my brother, George Aspden, the sum of six shillings per week during the term of his natural life; or, in lieu of that, the sum of one hundred pounds, my brother to make his choice. And I hereby give and bequeath unto the children of my

late brother, Nathaniel Aspden, one hundred pounds, to be equally divided amongst them, share and share alike. I also give and bequeath unto the children of my late sister, Mary Ashworth, the sum of one hundred pounds, to be equally divided amonst them, share and share alike.

And further, also, it is my will and mind, and I do hereby give and bequeath unto my son, Thomas Aspden aforesaid, of the State of Pennsylvania, the sum of one thousand pounds. And I also give and bequeath unto my son, Abraham Aspden, the sum of one thousand pounds. And I also give and bequeath to my son, John Aspden, the interest of the sum of one thousand pounds, and, at his decease, the principal sum of one thousand pounds aforesaid I further will and direct shall be equally divided amongst my other children, or their heirs, executors, administrators, and assigns. I also give and bequeath unto my son, Andrew Aspden, the sum of one thousand pounds, to be paid him as soon as practicable after my decease. And as to the rest, residue, and remainder of my estate, it is my will and mind, and I further direct the same to be equally divided into six equal parts or shares; one share of which I give unto my son Thomas, his heirs or assigns. One share I further give and bequeath unto my son Abraham, or his heirs and assigns. And I further give and bequeath unto my son John the interest of one share, to be paid him during his natural life, and at his death the principal to be divided amongst my five children, or their heirs, share and share alike, except my daughter Elizabeth; I will and direct that she only receive the interest, during the term of her natural life, and at her death to go to her child or children, as the case may be, share and share alike. I further give unto my son Andrew, or his heirs, executors, administrators, or assigns, one share. Also, I further give and bequeath unto my daughter, Elizabeth Dyson, the interest of one share, and after decease it is my will and mind that the principal shall be equally divided amongst her children, share and share alike. And my will and mind, and I further direct, that the receipt of my daughter Elizabeth alone, without her husband, shall be a good and bona fide release, acquittance, and discharge to my trustees, executors, administrators, or their heirs and assigns, for all moneys paid to my said daughter Elizabeth; and I further give and bequeath unto my daughter, Ann Trippier, her heirs and assigns, one equal share of the aforesaid residue of my estate. And I do hereby nominate, constitute, and appoint my son Thomas Aspden, my son Abraham Aspden, and my friends John Ashworth and Timothy Hoyle, trustees and executors of this my last will and testament; and I hereby revoke all former and other wills by me made, and I do declare that it shall and may be lawful to and for them to pay, re-imburse themselves all such costs, and charges, and expenses whatsoever, as they may respectively incur, or be put to in or about the execution of this my will, and that one of them shall not be answerable or accountable for the others, or other of them, or for the acts, deeds, receipts, or defaults of the others or other

of them, but each one for his own acts, deeds, and receipts only; and I do declare this to be my last will and testament.

In witness whereof I have hereunto set my hand and seal, this nineteenth day of February, in the year of our Lord one thousand eight hundred and forty-two.

JOHN ASPDEN. [SEAL.]

Signed, sealed, published, and declared by the testator, as and for his last will and testament, in the presence of us, and who, at his request, and in his presence, and in the presence of eath other, have subscribed our names as witnesses.

JAMES PILLING,
JOHN WOOD,
EMANUEL ASHWORTH.

And we further certify, that administration of the goods, chattels, and credits of the said deceased, which were in his lifetime, and at the time of his death, within the archdeaconry of Chester aforesaid, was committed and granted to Abraham Aspden, John Ashworth, and Timothy Hoyle, three of the executors in the said will named, (power being reserved to Thomas Aspden, the other executor therein also named, to take upon him the execution of the said will when he shall lawfully request the same,) they having first taken the oath, according to law in that case required, before the Reverend William Gray, clerk, our lawful surrogate aforesaid; all and singular which things we make known, signify, and certify, by these presents, to have been, and to be true.

In testimony whereof we have caused these our letters testimonial thereof to be corroborated by the putting hereto the seal of our office.

Dated at Chester, the third day of January, in the year of our Lord one thousand eight hundred and forty-three.

THOMAS SIMPSON,
Register.

[SEAL.]

CITY OF CHESTER.

The within exemplification is the exemplification mentioned and referred to in and by the annexed affidavit of John Spencer, to which he was sworn, this third day of January, in the year of our Lord one thousand eight hundred and forty-three.

WM. H. BROWN,
Mayor of Chester.

I, Edward Pate, of the city of Chester, notary public, by lawful authority duly admitted and sworn, do hereby certify and attest, unto all whom it shall or may concern, that Thomas Simpson, notary public, who hath signed the annexed act, is the registrat of the court of the rural dean of all and singular the rural deanries within the archdeaconry of Chester, practising in the city of Chester, in that part of the united

kingdom of Great Britain and Ireland, called England, and that to all acts by him so signed full faith and credit ought to be given in judicature and thereout.

In testimony whereof I have hereunto set my hand and affixed my notarial seal, this third day of January, in the year of our Lord one thousand eight hundred and forty-three.

EDW'D PATE, *Notary public*.

{ Edward Pate, E. P., 1804, notary public. }

John Spencer, of the city of Chester, gentleman, maketh oath and saith, that he did carefully and diligently compare and examined the copy of the last will and testament of John Aspden, late of Waterfoot, in the township of Newchurch, in the forest of Rossendale, in the county of Lancaster, and within the archdeaconry of Chester, deceased, recited fully and at length in the exemplification hereunto annexed, with the original last will and testament of the said deceased, proved and remaining in the registry of the court of the rural dean of all and singular the rural deanries within the archdeaconry of Chester aforesaid, along with Thomas Simpson, the registrat of the said court, who did, in this deponent's presence, set and subscribe his name and office to the said exemplification. And this deponent further saith, that the said copy, so recited in the said exemplication hereunto annexed, is a true and exact copy, and duly compared and examined with the said original by this deponent, and agrees therewith; and that the seal set, affixed to the said exemplification, is the usual seal of office of the rural dean of all and singular the rural deanries within the archdeaconry of Chester aforesaid, the deponent being well acquainted therewith.

JNO. SPENCER.

Sworn at the city of Chester, the third day of January, one thousand eight hundred and forty-three. Before me,

WM. HY. BROWN,
Mayor of Chester.

Present—
EDWD. PATE, *Notary public*.

To all to whom these presents shall come: I, William Henry Brown, esquire, mayor of the city of Chester, in that part of the united kingdom of Great Britain and Ireland, called England, do hereby certify, that on the day of the date hereof, at the town hall of the said city of Chester, personally came and appeared before me, John Spencer, of the city of Chester, gentleman, the deponent named in the annexed affidavit, being a person well known and of good credit, and by solemn oath, which the said deponent then and there took, before me, upon the holy evangelists of Almighty God, did solemnly and sincerely declare, testify, and depose to be true, the several matters and things mentioned and contained in the said annexed affidavit.

In faith and testimony whereof I, the said mayor, have hereunto set

my hand, and caused the seal of the office of mayoralty of the said city of Chester to be hereunto put and affixed, and the said affidavit to be annexed hereto. Dated at the town hall, in the said city of Chester, the third day of January, in the year of our Lord one thousand eight hundred and forty-three. WM. H'Y BROWN, [SEAL.]
Mayor.

Edward Pate, { Edward Pate, E. P. notary public, 1804. } notary public.

I, Edward Pate, of the city of Chester, notary public, by lawful authority duly admitted and sworn, do hereby certify and attest, unto all whom it shall or may concern, that William Henry Brown, esquire, mayor of the said city of Chester, before whom the annexed affidavit of John Spencer was taken, in the presence of me, the said notary, is mayor of the said city, and chief magistrate thereof; and that to all depositions before him taken, and by him signed, full faith and credit is and ought to be given in justice court and thereout. And I do further certify and attest, that the signature, "Wm. Hy. Brown, mayor," at the foot of the aforesaid affidavit, is of the own and proper handwriting of the said William Henry Brown, who signed the same in my presence, and that I saw the said mayor sign the annexed written certificate, and also the seal of the office of mayoralty affixed thereto.

In testimony of the premises I have hereunto set my hand and affixed my notarial seal, the third day of January, in the year of our Lord one thousand eight hundred and forty-three.

EDW'D PATE, { Edward Pate, E. P. notary public, 1804. }
Notary public.

E pluribus unum.

I, James Hagarty, consul of the United States of America, for the port of Liverpool and its dependencies, do certify and make known, to all whom it may concern, that William Henry Brown, esquire, whose certificate is hereunto annexed, is mayor of the city of Chester; that Edward Pate, who has signed and sealed the certificates also annexed, is a notary public, duly admitted and sworn, practising in Chester; and that to the said acts by them so attested full faith and credit are due.

Given from under my hand and seal of office, at Liverpool, the third day of January, and year one thousand eight hundred and forty-three. JAS. HAGARTY.

{ Consulate of the U. S. America, Liverpool. }

SAM. PEARCE.

REGISTER'S OFFICE, *Feb'y* 8, 1843.

I do swear that, as the executor of the foregoing last will and testament of John Aspden, deceased, I will well and truly administer the goods and chattels, rights and credits, of said deceased, (within the United States of America,) and that I will comply with the provisions of the law relating to collateral inheritance.

THOS. ASPDEN.

Sworn and subscribed before me, the date above, and letters testamentary granted unto him.

ROBERT F. CHRISTY,
Deputy register.

Point of disagreement and certificate of division of the judges.

And now, to wit, this ninth day of November, A. D. one thousand eight hundred and forty-three, this cause came on to be heard by counsel on the amended bill, the pleas in bar, and replications and rejoinders, and on the testimony relating thereto; and the judges being opposed in opinion as to the effect of the evidence in support of the pleas in bar, the point upon which such disagreement happens, to wit: Is the evidence, touching the plea in bar, sufficient to support it? is now, during the same term, at the request of Jacob Hoffman and Charles J. Ingersoll, esquires, counsel for Thomas Aspden, executor of John Aspden, deceased, one of the complainants, stated under the directions of the said judges, to be certified, under the seal of the court, to the Supreme Court of the United States, at their next session, for final decision.

In the circuit court of the United States, in and for the eastern district of Pennsylvania, in the third circuit, of April sessions, 1828.

SAMUEL PACKER and others
vs.
JOSEPH TROTTER, administrator de bonis non with the will annexed of Matthias Aspden, deceased. } No. 1—in equity.

I certify the foregoing to be true and faithful copies of the amended bill, the pleas in bar, and replications and rejoinders, and the testimony relating thereto, and of the point upon which the judges of the said court were opposed in opinion.

In testimony whereof I have hereunto subscribed my name, and affixed the seal of said court, at Philadelphia, this twentieth [SEAL.] day of December, A. D. 1843, and in the sixty-eighth year of the independence of the said United States.

FRA. HOPKINSON,
Clerk, circuit court.

Mandate of the Supreme Court.

Afterwards, to wit, on the twentieth day of April, A. D. 1846, the mandate of the Supreme Court of the United States is presented, which, being read and filed, is in the words and of the tenor following, to wit:

UNITED STATES OF AMERICA, *ss:*

The President of the United States of America, to the honorable the judges of the circuit court of the United States, for the eastern district of Pennsylvania, greeting:

{ Seal of the Supreme Court U. S. }

Whereas lately in the circuit court of the United States, for the eastern district of Pennsylvania, before you, in a cause, Thomas Aspden, executor of John Aspden, deceased, an alien, and al., complainants, and Joseph Trotter, administrator de bonis non with the will annexed of Matthias Aspden, deceased, defendant, in chancery, wherein the judges were opposed in opinion on a certain point or question, which was certified under the seal of the said circuit court to the Supreme Court of the United States for its opinion, as by the inspection of the transcript of the record of the said circuit court, which was brought into the Supreme Court of the United States, agreeably to the act of Congress in such case made and provided, fully and at large appears; and whereas in the present term of December, in the year of our Lord one thousand eight hundred and forty-five, the said cause came on to be heard before the said Supreme Court on the said transcript of the record, and was argued by counsel; on consideration whereof, it is the opinion of this court, that the evidence introduced "touching the plea in bar," is no estoppel to the representatives of John Aspden, of London, in so far as they seek to recover the assets of Matthias Aspden's estate, in the course of administration by the orphan's court of Philadelphia county; whereupon it is now here ordered and decreed by this court, that it be so certified to the said circuit court, and the same is accordingly hereby certified.

March 4th.

You, therefore, are hereby commanded, that such further proceedings be had in said cause, in conformity to the opinion of this court, as according to right and justice and the laws of the United States ought to be had, the said certificate notwithstanding. Witness the honorable Roger B. Taney, chief justice of said Supreme court, the first Monday of December, in the year of our Lord one thousand eight hundred and forty-five.

WM. THOS. CARROLL,
Clerk of the Supreme Court of the United States.

Motion for commission to London, &c.

Afterwards, to wit, on the fourteenth day of September, A. D. 1846, on motion of H. J. Williams, esquire, solicitor for John A. Brown, administrator of John Aspden, deceased, of London, the court grant a rule for a commission to London and to Lancashire, England, to be executed in both or in either place.

Reference to master.

Afterwards, to wit, on the second day of October, A. D. 1847, it is ordered by the court here, that the docket in this case, and all the papers filed, be referred to the master, to inquire and report what is the present state of the case, in reference to the parties and counsel before

the court, and that he report particularly: 1st. Who are all the parties in the case before the court. 2d. By whom the parties are represented as counsel. 3d. The state of pleadings, and the issues to be determined. And that he also report what papers, if any, ought to be printed.

Commission to London, filed 9th November, 1847.

In the circuit court of the United States, for the eastern district of Pennsylvania, in the third circuit.

April session, A. D. 1828.

SAMUEL PACKER, complainant,
vs.
JOSEPH TROTTER, administrator de bonis non cum testamento annexo of Matthias Aspden, defendant. } No. 1.—In equity.

The President of the United States, to Nathaniel Charles Milne and James Robinett Scruby, of London, gentlemen, or either of them, commissioners named by and on behalf of the complainants, and to Alfred King, esq., of London, J. Thompson, esq., 12 King's Bench walk, London, and Richard Smith, esq., 67 Chancery lane, commissioners named by and on behalf of Thomas Aspden, executor of John Aspden, of Lancashire, England. [L. S.]

Know ye, that, in confidence of your prudence and integrity, we have given unto you, and by these presents do give unto you, or any two or more of you, not being of the same nomination, full power and authority, in pursuance of a rule lately made in the circuit court of the United States, in and for the eastern district of Pennsylvania, in the third circuit, in a certain action in equity therein depending, wherein the said Samuel Packer is complainant, and the said Joseph Trotter, administrator de bonis non cum testamento annexo of Matthias Aspden, is defendant, to call before you, at a certain day and place by you for that purpose to be appointed, all and every person and persons who may be named to you by the said parties, or either of them, as witnesses in the said action, and then and there to examine them, on their respective oaths and affirmations, on certain interrogatories hereunto annexed, touching the premises, and to reduce their testimony to writing; and when you shall have so done, you are to send the same to the said circuit court, closed up, and under your seals, plainly and distinctly set, together with this writ.

Witness the honorable Roger B. Taney, chief justice of the Supreme Court of the United States, at Philadelphia, this twenty-sixth day of April, A. D. 1847, and in the seventy-first year of the independence of the said United States.

GEORGE PLITT,
Clerk of circuit court.

[Endorsed.]

The execution of this commission appears in a certain schedule hereunto annexed.

NATHANIEL C. MILNE,
ALFRED KING,
Commissioners.

April session, A. D. 1828.

SAMUEL PACKER, complainant,
vs.
JOSEPH TROTTER, administrator de bonis non cum testamento annexo of Matthias Aspden, defendant. } No. 1.—In equity.

In the circuit court of the United States, in and for the eastern district of Pennsylvania, in the third circuit.

Interrogatories to be administered to witnesses to be produced, sworn or affirmed, and examined on behalf of John A. Brown, administrator of John Aspden, late of London, in Great Britain, petitioner and claimant in the above cause, under a commission issued in the said cause on the part of said claimant.

First. Do you know the parties complainant and defendant in the title of these interrogatories named, or either of them? If yea, when, where, and how long have you known them, or either of them?

Second. Did you know John Aspden, formerly of Old street, London, and his daughters, Janet Jones, widow of David Jones, and Mary Poole, widow of Thomas Poole, or either and which of them? If yea, when, where, and how long did you, or have you known them or either of them? Where did, or do they, or either of them reside?

Third. Do you know, or have you been credibly informed, who was the father, paternal grandfather, and great grandfather of the said John Aspden? If yea, state when and how, and from whom you derived your knowledge or information; what were the names, places of birth, residence, death and burial of said ancestors of said John; what were their occupations; their ages at the times of their respective deaths; when and whom they married; how many children they had; and what were the respective names, places, and periods of birth, baptism, and death of each of said children; also, if the said John be dead, when and where he died; when and where he was married; and the births of his children and descendants generally. State particularly whether the said ancestors of the said John Aspden were or were not respectively eldest sons; declare your whole knowledge herein, and specify the sources from which that knowledge is derived, whether from general reputation, family records, or otherwise.

Fourth. Do you know anything further by general reputation or otherwise of the pedigree of the said John Aspden and his children? If yea, state it fully, and your sources of information.

Fifth. Did you know Matthias Aspden, the testator above named? If yea, state particularly when, where, and how long you knew him.

Sixth. Do you know anything of the pedigree of the said Matthias Aspden; and whether he was, or considered himself, a relative of the said John Aspden? If yea, state the whole pedigree and connexion of the said Matthias.

Seventh. Have you ever received or seen any letters written by or to the said Matthias Aspden, or by or to any member of his family, or by or to any member of the family of the said John Aspden? If yea, please to annex them to your answer: state whence they came, and in whose handwriting they are, and your means of knowledge of such handwriting.

Eighth. Look at the paper writings now shown to you, and say whether you did compare them with the registers of any and what parish and place, book or books, entry or entries? If yea, are the same true copies of such originals, and by whom are they certified, and whose signatures are attached thereto?

Ninth. Look at the paper writings now shown to you, and say whether they are true copies of inscriptions upon any and what headstones or tombs. State if you have seen such stone or tombs, in what burial ground such inscriptions are to be found, the name of the church to which they are attached, and the parish and county.

Tenth. Look at the paper writings now shown, and state what they purport to be; are they original or not? If copies, are they true copies compared by yourself, and of what? If original, in whose handwriting, where found, and from whom procured? Are they written on detached pieces of paper, or in any or what book? State your whole knowledge in relation to the said writings, and annex the same to your answer, if within your control, or state your reason for not doing so.

Eleventh. Do you know, or can you set forth, any other matter or thing which may be a benefit or advantage to the parties at issue in this cause, or either of them, or that may be material to the subject of this your examination, or the matters in question in this cause? If yea, set forth the same fully and at large in your answer.

Nathaniel Charles Milne and James Robinett Scruby, of London, gentlemen, or either of them, are named commissioners on behalf of the said claimant.

WILLIAM B. REED,
HENRY J. WILLIAMS,
Solicitors.

A true copy from the original filed.

GEORGE PLITT,
Clerk of circuit court.

SAMUEL PACKER,
vs.
JOSEPH TROTTER, administrator D. B. N. C. T. A'o of Matthias Aspden.

Cross interrogatories to be administered to witnesses examined upon

the interrogatories filed in this cause, on behalf of John A. Brown, administrator of John Aspden, of Old street, London, which said cross interrogatories are filed by Thomas Aspden, of Philadelphia, executor of John Aspden, his father, of Lancashire, England, on behalf of himself and others, children and grandchildren of the said John Aspden, of Lancashire, formerly petitioner in this cause, as sole heir-at-law of Matthias Aspden, the testator.

Interrogatory 1. Do you know John A. Brown, of the city of Philadelphia, administrator of John Aspden, of Old street, London, petitioner in this cause?

Interrogatory 2. Did you personally know John Aspden, of Old street, London; did you know his history and family; whose son was he; who was his mother; was he begotten and born in lawful wedlock; who did he marry; was he not regarded as illegitimate; did he always bear the name of Aspden; did his father always bear that name?

Interrogatory 3. How do you know that John Aspden, of Old street, London, was or was not born in lawful wedlock; when was he born; where born; when was he married; to whom was he married; when did he die?

Interrogatory 4. How do you know that John Aspden, of Old street, London, was at all related to Matthias Aspden, the testator, who died in London, in August, 1824; and whose son was the said John Aspden, of London; and if you answer that he was the son of Andrew, state whether you know the said Andrew; and how you know that Andrew was of the same family with the testator; when was the said Andrew born; when baptized; when married, and to whom; when did he die; where buried; and at what age; was Andrew, the alleged father of John, of London, really named Aspden?

Interrogatory 5. If the said Andrew died in September, 1771, and you did not know him, how do you know that he was the son of any father related to the testator?

Interrogatory 6. If you knew none of the alleged sons of Thomas Aspden, of Simonstone, Lancashire, (the alleged common ancestor,) how do you know that any of them were his sons; and if you knew none of them, how do you know that John Aspden, of Kent, who died in January, 1754, was the brother of William Aspden, of Lancashire, who died in Lancashire much about the same time; and if you do not know that William, of Lancashire, and John, of Kent, were brothers, how do you know that John was the eldest brother of the family; and if the parish registers state but the dates of births, marriages, baptisms, and burials, in what way do you connect, in point of relationship, John, of Kent, who died January 30th, 1754, with John Aspden, of London, (the father of Jannet Jones and Mary Poole,) who died in March, 1828?

Interrogatory 7. What was the age of John Aspden, of London, when he died; was he aged 85 when he filed his bill against Henry Nixon, in the chancery court of England, in 1825? State also the age of his

alleged father, Andrew, at the time of the alleged birth of John, of London.

Interrogatory 8. How do you know that the Andrew Aspden, if Aspden, who died at Deptford, 19th Sept., 1771, and who is said to have been born 14th January, 1710, was not the son of Thomas Aspden and Elizabeth Scroop, and if certainly not him, how do you know that he who was buried at Deptford was born at Padiham?

Interrogatory 9. Where was the said Andrew, the alleged father of John, of London, born, and when; where baptized, and when; where married, and when; where buried, and when; what was his age?

Interrogatory 10. When and where was Andrew's alleged father, John, of Kent, born, baptized, married, and buried; and where was John, of London, born and baptized; if John, the alleged grandfather of John, of London, resided in Kent, where did Andrew and Andrew's child and children at the same time reside; do the parish registers and tombstones give the relationships, or do you infer the relationships from 1648 to the present time, by the dates and names of the registers and monumental inscriptions?

Interrogatory 11. What was the age of John Aspden, of London, at the time of the death of his alleged great grandfather, Thomas; what was his age at the time of the death of his alleged grandfather, John, of Kent; and what was his age at the time of the death of his alleged father, Andrew, of Deptford; how do you know the matters inquired of?

Interrogatory 12. How many sons and daughters did Thomas Aspden, of Simonstone, in Lancashire, leave; did you know the eldest son of the said Thomas; did you know John Aspden, of Kent; did you know William Aspden, of Great Harwood, Lancashire; did you know Richard Aspden, of Lancashire; if you knew none of them, how do you know that John, of London, was the great grandson of Thomas?

Interrogatory 13. What knowledge have you of the following John Aspdens?

1. John Aspden, son of Mary, died Oct. 17, 1751, Deptford.
2. John Aspden, buried at Deptford, Jan. 31, 1754.
3. John Aspden, laborer, from the workhouse, Deptford.
4. John Aspden, of Brumley, baptized 1708.
5. John Aspden, of Stonehouse, married at Brumley, Nov., 1709.
6. John Aspden, married at Whalley, to Elizabeth Balcourt, 29th April, 1718.
7. John Aspden, who married at Whalley, to Sarah Butterworth, April 10, 1710.
8. John Aspden, of London, the alleged heir of Matthias, the testator, said to be born 22d March, 1739, to have married Mary Sanderson 29th Nov., 1767. State particularly your knowledge of all these John Aspdens, and particularly when Mary Aspden, (formerly Sanderson,) wife of John, of London, died, and her age at the time of her death.

Interrogatory 14. Was or was not the said Andrew Aspden, who is

the alleged father of John, of London, and the alleged son of John Aspden, of Kent, reputed to be illegitimate; if so, please state your reasons for so believing; and if you regard him as legitimate, please state your reasons; when was his alleged father married; when was said Andrew baptized; who was his mother; did you know the father or the son; how do you know that Andrew was an only child?

Interrogatory 15. If, in answer to any interrogatory in chief, you have testified that the person called John Aspden, of Kent, is the same person who is recorded as being born in Lancashire, in August, 1689, and that he removed to Deptford, in Kent, how do you know those facts; when did he remove there; of what age was he at the time of his alleged removal; was he then single or married; did the alleged father continue in Lancashire; and if the said father of John, of Kent, married Elizabeth Scroop in the year 1688, whose son was Richard, said to be baptized 18th March, 1687; were there no other Thomas Aspdens who had sons named John and Richard besides that Thomas; and if so, what means have you of knowing that Thomas Aspden, the progenitor of Matthias, the testator, was also progenitor of the now alleged John Aspden, of Kent, the alleged son of Andrew Offiden?

Interrogatory 16. Was not the family of Thomas Aspden, of Simonstone, in Lancashire, well known there; are you of that shire, and of that neighborhood; have you heard any of that family speak of the emigration; did the alleged John Aspden, of Kent, after his alleged removal from Lancashire, always continue in the said county of Kent; are there any family letters to or from John, of Kent, to his father, or any of his alleged brothers; any letters to or from his alleged two sisters; any letters to or from the wife of said John; or is there any other record of such removal from Lancashire to Kent, between 1710 and 1754?

Interrogatory 17. What do you know of Thomas Aspden, the alleged common ancestor of John, of London, and John, of Lancashire; are you sufficiently aged to have known William Aspden, his son, as did the many witnesses who testified sixteen years ago; did not the said Thomas die about 120 years ago; and did not his son, William, die nearly 76 years ago; and did not the alleged grandfather of John, of London, die nearly 100 years ago; if these individuals were all unknown to you, how can you testify as to the personal identity of John, of Kent, and of John, the alleged emigrant.

Interrogatory 18. Is not the family of Aspden in Lancashire numerous, and the alleged Aspden family, of London, extinct as to males of that name, and also as to females of that name; and is it not nearly extinct in males and females of the alleged John Aspden, of London; are, or are not the two sons of Janet Jones, and the two daughters of Janet Jones, together with Mary Poole, the only survivors of the blood or family of the alleged John Aspden, of London?

Interrogatory 19. When did Janet Jones die, and what children did she leave; and what was her age at the time of her death, and who was her mother; what are the names and ages of her children; are they

single or married, and which of them are single; what is the age of Mary Poole; has she any issue; who was her mother?

Interrogatory 20. If you knew Matthias Aspden, the testator, did he or did he not manifest, and if the former, please state the various ways and occasions in which he manifested, his belief in the illegitimacy of that Andrew who is said to have been the father of John Aspden, of London; did he not on several occasions so express himself; did he not often take offence at the recent visits of Janet Jones after no intercourse of more than 20 years; and did he not repeatedly declare in your presence that the said John, of London, was not truly of his blood, family, and name?

Interrogatory 21. Had or had not the said testator great doubts also as to the legitimacy of the said John, of Old street, London; what was his general deportment to that John, and to his alleged family, viz., Andrew, and Mrs. Jones and Mrs. Poole?

Interrogatory 22. Did or did not the said testator, on the other hand, manifest his special regard towards William Aspden, of Great Harwood, Lancashire, as his elder uncle; and did not Matthias Aspden, senior, the testator's father, do so likewise; did either of them ever manifest the least regard towards John, of London, or his children, or towards Andrew and his children, or any belief in the allegation that the alleged John, of Kent, was an emigrant elder brother?

Interrogatory 23. Have you read the inscription upon the tombstone at St. Paul's, Deptford, Kent, of that Andrew who is said to be father of John, of Old street, London; is it or is it not stated upon that tombstone that he died September 13th, 1771, aged 63 (sixty-three); please state all the words and figures on the said tombstone; if aged 63, in 1771, was he not baptized in 1708; how then can the said Andrew be the same Andrew Aspden who is said to have been baptized at Padiham, Lancashire, on the 14th January, 1716, old style; does the tombstone at Deptford state the said Andrew to be the son of any particular person?

Interrogatory 24. If you answer affirmatively (or whether you have answered or not) to John A. Brown's second interrogatory, state whether you knew the wife of the said John Aspden, alleged to be of Kent, formerly of Lancashire; what was her maiden name; her age at the time she bore her last child; also the number of her children, their respective names at the time of her death; also the year in which she died; and how many of them, if any, are now living?

Interrogatory 25. If you answer affirmatively to the third interrogatory in chief, please state how the father of the said John spells or did spell his surname, how long he has so spelled it, and whether the father of said John, of London, did or did not spell his name "Offiden," or in some similar way; was there any s or any p in the said name; is not the double f (ff) quite distinct; and is it not so registered in the parish church of St. Luke, London, in the county of Middlesex, in page 7 of that record?

Interrogatory 26. If you have testified as to the copies in your answer

or answers to the ninth interrogatory in chief, and that the same are accurate copies, do you mean thereby to say that they prove the deceased individuals therein mentioned to be related to the testator, or related to each other, the chain designated in a pictorial representation, or genealogical tree?

Interrogatory 27. Do you know anything of the alleged relationship, except from the said copies, or from the said originals; how do you know that any of them are related to the testator?

Interrogatory 28. What do you mean by "bible entries;" do you mean such entries as are made by persons knowing the events recorded, and recording them somewhat contemporaneously with the respective times, and also designed by the recorder to be evidential of the matters recorded?

Interrogatory 29. Do you know when John Aspden, of Lancashire, the father of the now petitioner, Thomas, went to the United States to prosecute his said claim as the heir-at-law under the will of his cousin Matthias; and what was his age when he came to Philadelphia; when did his son Thomas, the now complainant, arrive there; is he not there at this time, and has he not been there prosecuting the said claim for 20 years; was not that fact known to John, of London; was it not known to Mrs. Jones and Mrs. Poole?

Interrogatory 30. Had John Aspden, of London, or his children, Janet Jones and Mary Poole, any agent in the United States for the prosecution of the alleged claim, from the death of the testator in 1824, to June, 1835; if yea, state who he was, and by whom employed, and upon what terms, if any, employed; have Janet Jones and Mary Poole, or either of them, had any such agent in the United States from 1835 to 1846; if yea, state who the agent was, how employed, by whom employed, and did the said Jones and Poole, or either of them, engage to pay the costs and expenses of such prosecution of the claim; was there any power of attorney sent by them to any one in this country; was there any letter written to any such attorney at law, or attorney in fact, by the said Jones and Poole, or either of them, or by any other person duly authorized by them; did any agent in England address letters to any person in this country authorizing such a claim; if yea, did Jones and Poole authorize the same, or ever see the same; if you have seen such letters, annex copies, or state their general contents, if the originals and copies are not within your control; did either of the said coheiresses ever expend any money, or contract to do so, in the prosecution of said alleged claim?

Alfred King, esquire, of London, J. Thompson, esquire, 12 King's Bench walk, London, and Richard Smith, esquire, 67 Chancery lane, are named as commissioners on behalf of Thomas Aspden, executor of John Aspden, of Lancashire.

DAVID HOFFMAN,
Solicitor for Thomas Aspden, executor of John Aspden, of Lancashire, England.

A true copy from the original filed.

GEORGE PLITT,
Clerk of circuit court.

(Endorsed.) "Circuit court, April session, 1828. No. 1.

SAMUEL PACKER
vs.
JOSEPH TROTTER, administrator, &c.
of Matthias Aspden.

Commission on the part of complainant to London, England."

Depositions of witnesses produced, sworn, and examined on the fourteenth day of September, in the year of our Lord one thousand eight hundred and forty-seven, at the house of the Incorporated Law Society, in Chancery lane, in the city of London, in England, by virtue of a commission issuing from the circuit court of the United States, for the eastern district of Pennsylvania, in the third circuit, to us, Nathaniel Charles Milne and Alfred King, and others directed, for the examination of witnesses in a certain cause depending in the said court, wherein Samuel Packer is plaintiff, and Joseph Trotter, administrator de bonis non cum testamento annexo of Matthias Aspden, is defendant.

I, James Neville, of Blackburn, in the county of Lancaster, one of the solicitors of the high court of chancery in England, aged sixty years, or thereabouts, being produced, sworn, and examined on behalf of the plaintiff, depose as follows:

To the first interrogatory on the part of the plaintiff I answer as follows: I do not know the parties, complainant or defendant, in the title of these interrogatories inquired after, or either of them.

To the second interrogatory on the part of the plaintiff I answer as follows: I did not know John Aspden, formerly of Old street, London; I know both of his daughters, Janet Jones, widow of David Jones, and Mary Poole, widow of Thomas Poole; I first knew them, I think, in or about the year 1830, in London; I am not aware that I knew them before; Mrs. Jones at that time lived in a house numbered 104, in Old street, Saint Luke's, in the county of Middlesex, and I believe Mrs. Poole lived at Lower Edmonton, in the same county; Mrs. Jones is dead, and I believe Mrs. Poole resides in a house numbered 16, on Nelson Terrace, in Islington, in the county of Middlesex.

To the third interrogatory on the part of the plaintiff I answer as follows: I do not know, but I have been credibly informed, who was the father, paternal grandfather, and great grandfather of the said John Aspden; I think I was first credibly informed of it in or about the year one thousand eight hundred and thirty-four from searching parish registers, and from conversations with the late Mrs. Jones and Mrs. Poole, and various other parties; the name of the father of the said John Aspden was Andrew Aspden, who was born in the township of Read, near Padiham, in the county of Lancaster, as appears by the register of his baptism, which I shall hereafter produce; he resided at

Read, aforesaid; he died in September, one thousand seven hundred and seventy-one, but where I do not know; he was buried at Saint Paul's church, Deptford, in the county of Kent; the name of the paternal grandfather of the said John Aspden was John Aspden, who was born in Read aforesaid, as I believe, and resided there; he died in Kent, and was buried in Saint Paul's church, Deptford, aforesaid. His great grandfather was Thomas Aspden; I do not know where he was born or where he resided, but I have been informed, and believe, that he was born and resided at Simonstone, in the county of Lancaster; I cannot tell when he died, nor where he was buried; I believe the occupation of Andrew was that of an ivory turner, and I have been told he was a cheesemonger also; I do not know what was the occupation of John Aspden, the paternal grandfather, but I have been informed he was at one period of his life an inn keeper in Kent; I do not know what was the occupation of Thomas Aspden, the great grandfather; the age of Andrew at the time of his death was about sixty-one; the age of John Aspden at the time of his death was about sixty-five; the age of Thomas at the time of his death I do not know; I believe that Andrew married on the fifth day of November, one thousand seven hundred and thirty-five, Janet Hindle, and that John married on the tenth day of April, one thousand seven hundred and ten, (old style,) Sarah Butterworth; I do not know when or whom Thomas Aspden married, but I have heard that he married a person by the name of Scroope; I do not know how many children Andrew had, but I find from searching parish registers that he had a son named John, who, I believe, was born in Old street aforesaid, on the ninth March, one thousand seven hundred and thirty-nine, and was baptized on the twenty-second day of March, one thousand seven hundred and thirty-nine, and died in Old street aforesaid on the twenty-second day of February, one thousand eight hundred and twenty-eight. He was married on the twenty-ninth November, one thousand seven hundred and sixty-seven, at Saint Botolph's, Aldersgate, in the city of London. His child, Jennet, alias Jenet, who was afterwards Mrs. Jones, was born on the eleventh day of September, one thousand seven hundred and sixty-eight; and his child, Mary, afterwards Mrs. Poole, was born on the twenty-eighth day of November, one thousand seven hundred and sixty-nine. I have ascertained from searching the registers that John had several other children, who all died in early infancy. All the descendants of the said John Aspden, that I am aware of, were John Joseph Jones, the son of the said Jennet, otherwise Jenet Jones, who is dead; and his children are John Joseph Jones, Caroline Matilda Jones, Jennet Jones, and David Jones. The said Mary Poole has not any child; I believe she had one child, who died when a few days old. I do not know how many children Thomas Aspden had, but I believe he had a very numerous family. From searching the parish registers, I find that he had a son John, who appears to have been his eldest son, a son of the name of William, a son of the name of Matthias, a daughter of the name of Margery, afterwards Margery Bailey, and

several other children. The place of the birth of John was, I believe, at Read, aforesaid, in the year one thousand six hundred and eighty-nine. He was baptized at Padiham aforesaid, on the fourth day of August, one thousand six hundred and eighty-nine, and died in Kent in January, in the year one thousand seven hundred and fifty-four. The place of the birth of William was, I believe, at Read aforesaid, in the year one thousand six hundred and ninety-one. He was baptized at Padiham aforesaid, on the twenty-sixth July, one thousand six hundred and ninety-one; but I do not know when or where he died. The place of the birth of Matthias was, I believe, at Read aforesaid, in the year one thousand six hundred and ninety-three. He was baptized at Padiham aforesaid, on the fourteenth May, one thousand six hundred and ninety-three, and died, I believe, in America, in or about the year one thousand seven hundred and sixty-five. The place of the birth of Margery was, I believe, at Read aforesaid, in the year one thousand seven hundred and four; she was baptized at Padiham aforesaid, on the fourteenth June, one thousand seven hundred and four, and died in the year one thousand seven hundred and eighty-seven, and was buried at Padiham aforesaid, on the twenty-second day of November, one thousand seven hundred and eighty-seven. The father of John Aspden, viz., Andrew, was, according to the registers, an eldest son. The father of the said Andrew, viz., John, was according to the said registers, an eldest son. I have declared my whole knowledge herein, and specified the sources from which such knowledge is derived.

To the fourth interrogatory on the part of the plaintiff I answer as follows: I do not know any thing further, by general reputation or otherwise, of the pedigree of the said John Aspden and his children.

To the fifth interrogatory on the part of the plaintiff I answer as follows: I did not know Matthias Aspden, the testator above named.

To the sixth interrogatory on the part of the plaintiff I answer as follows: I do know something of the pedigree of the said Matthias Aspden. He was, and considered himself, a relation of the said John Aspden. The said Matthias Aspden, the testator, was the son of Matthias Aspden, who was a son of Thomas Aspden; and the said Thomas Aspden was the father of John Aspden, and of the before mentioned William Aspden and Margery Bailey; and the said John Aspden was the father of Andrew Aspden, who was the father of John Aspden, who was the father of Jennet, alias Jenet Jones and Mary Poole; and the said Jennett, alias Jenet Jones, was the mother of John Joseph Jones, deceased, which said John Joseph Jones, deceased, was the father of the said John Joseph Jones, Caroline Matilda Jones, Jenet Jones, and David Jones.

To the seventh interrogatory on the part of the plaintiff I answer as follows: I have seen and received several letters, written by the said Matthias Aspden, and by and to several members of his family, and to the family of the said John Aspden; but I have not received or seen any letters written to the said Matthias Aspden, or any letter written by

any member of the family of the said John Aspden, except one, which is hereafter referred to by me, and is marked as an exhibit with the letters Oo. The several letters are annexed to my answers. All such letters, except one, which is marked with the letters ddd, came to me from the late Adam Dugdale, esq., who informed me that he had received them from the said Jenet Jones, and the said Jenet Jones informed me that she had delivered them to the said Adam Dugdale. I do not know in whose handwriting they are, and such letter marked ddd was delivered to me by John Joseph Jones, hereafter mentioned, who told me that he found it in the house in Old street.

To the eighth interrogatory on the part of the plaintiff I answer as follows: I have looked at the paper writings now shown to me, marked with the letters A, B, C, D, E, F, G, H, I, K, L, M. I did compare the paper writings, marked respectively A and B with the registry book of baptisms, kept in the church of Padiham, in the county of Lancaster, and the same are true copies of the original entries therein, and are certified by S. F. C. Adamson, whose signature is attached thereto. I did also compare the paper writing marked with the letter C, with the registry book of marriages, kept in the parish church of Whalley, in the said county, and the same is a true copy of the original entry therein, and is certified by me, the clergyman of the parish being, as I now believe, and as far as my recollection serves me, absent at the time. I did also compare the paper writing, marked with the letter D, with the registry book of marriages, kept in the parish church of Saint Luke, in the said county of Middlesex, and the same is a true copy of the original entry therein, and is certified by Edward C. Tracy, whose signature is attached thereto. I did also compare the paper writing, marked with the letter E, with the registry book of marriages, kept in the parish church of St. Luke aforesaid, and the same is a true copy of the original entry therein, and is certified by the said Edward C. Tracy, whose signature is attached thereto. I did also compare the paper, marked with the letter F, with the registry book of baptisms, kept in the parish church of Saint Luke aforesaid, and the same is a true copy of the original entry therein, and is certified by the said Edward C. Tracy, whose signature is attached thereto. I did also compare the paper writing, marked with the letter G, with the registry book of burials, kept in the parish church of Saint Paul, Deptford, Kent, and the same is a true copy of the original entry therein, and is certified by B. S. Finch, whose signature is attached thereto. I did also compare the paper writing, marked with the letter H, with the registry book of marriges, kept in the parish church of Saint Botolph, Aldersgate, in the city of London, and the same is a true copy of the original entry therein, and is certified by E. H. Penny, whose signature is attached thereto. I did also compare the paper writing, marked with the letter I, with the registry book of christenings, kept in the parish church of Saint Botolph aforesaid, and the same is a true copy of the original entry therein, and is certified by the said E. H. Penny, whose signature is attached thereto. I did also compare the paper writing, marked with the letter

K, with the registry book of christenings, kept in the parish church of Saint Botolph aforesaid, and the same is a true copy of the original entry therein, and is certified by the said E. H. Penny, whose signature is attached thereto. I did also compare the paper writing, marked with the letter L, with the registry book of burials, kept in the parish church of Saint Paul, Deptford, aforesaid, and the same is a true copy of the original entry therein, and is certified by the said B. S. Finch, whose signature is attached thereto. I did also compare the paper writing marked with the letter M, with the registry book of burials, kept in the parish church of Saint Paul, Deptford, aforesaid, and the same is a true copy of the original entry therein, and is certified by the said B. S. Finch, whose signature is attached thereto.

To the ninth interrogatory on the part of the plaintiff I answer as follows: I have looked at the paper writings now shown to me, marked with the letters A; they are true copies of inscriptions upon a headstone which I have seen in the burial ground attached to the church of the parish of Saint Paul, Deptford, in the county of Kent, where I believe such inscriptions are now to be found.

To the tenth interrogatory on the part of the plaintiff I answer as follows: I have looked at the paper writings now shown to me, marked respectively with the letters Bb, Cc, Dd, Ee, Ff, Gg, Hh, Ii, Kk, Ll, Mm, Nn, Oo, Pp, Qq, Rr, Ss, Tt, Uu, Vv, Ww, Xx, Yy, Zz, aaa, bbb, ccc, ddd, eee; and I state that the paper writing marked Bb is a true copy, compared by myself, of entries in the late John Aspden's bible, relative to his family; and I state that the paper writings marked respectively Cc, Dd, Ee, Ff, Gg, are, respectively, papers received by me from the late Mr. Grigson, who was the solicitor to the late John Aspden. The original letters, of which these papers profess to be copies, are, as I believe, in the possession of the representative of the said Mr. Grigson, who refuses to deliver them up. And I state that the paper writing marked Hh purports to be an original letter from Margery Baily to Andrew Aspden, in Old street, next door to Golden Anchor, ivory turner, London, but in whose handwriting I cannot tell. It was found by the late Mrs. Jones, as she informed me, in a private drawer in her father's shop, No. 104 in Old street, after his death, and by her forwarded to the said Adam Dugdale, who gave it to me. It is written on a detached piece of paper. And I state that the paper writing marked Ii purports to be an original letter from Matthias Aspden, the testator, to Mr. Andrew Aspden, in Old street, London. I do not know in whose handwriting it is. It was found by the said Mrs. Jones in the same place as the last letter, and sent by her to the late Adam Dugdale, who handed it to me. It is written on a detached piece of paper. And I state that the paper writing marked Kk purports to be an original letter from Matthias Aspden, the testator, to Mr. John Aspden, at Mr. Andrew Aspden's, Old street, London. I do not know in whose handwriting it is. It was found by the said Mrs. Jones in the same place as the former letter, and sent by her to the said Adam Dugdale, who handed it to me. It is written on a detached

piece of paper. And I state that the paper writing marked Ll purports to be an original letter from the said Matthias Aspden, to Mr. Andrew Aspden, Old street, London; I do not know in whose handwriting it is; it was found by the said Mr. Jones in the same place as the former letter, and sent by him to the late Adam Dugdale, who handed it to me. It is written on a detached piece of paper. And I state that the paper writing marked Mm purports to be an original letter from Mary Aspden to Matthias Aspden; but I believe the letter is in the handwriting of a Mr. Heaton, formerly a solicitor in Blackburn, but whether it is an original letter I do not know; it was found by the said Mrs. Jones in the same place as the former letters, and sent by her to the said Adam Dugdale, who handed it to me. And I state that the paper writing marked Nn purports to be an original letter from Matthias Aspden, the testator, to Andrew Aspden, in Old street, London; I do not know in whose handwriting it is; it was found by the said Mrs. Jones in the same place as the former letters, and sent by her to the late Adam Dugdale, who handed it to me. It is written on a detached piece of paper. And I state that the paper writing marked Oo purports to be an original letter from Margery Bailey to Mr. Matthias Aspden, merchant, Philadelphia; but I do not know in whose handwriting the letter is, and whether it is an original letter I do not know. It was found by the said Mrs. Jones in the same place as the former letters, and sent by her to the said Adam Dugdale, who handed it to me. It is written on a detached piece of paper. And I state that the paper writing marked Pp purports to be a letter from the said Margery Baily to Mrs. Jenet Aston, near the Golden Anchor, Old street, London; but I do not know in whose handwriting the letter is; and whether it is an original letter I do not know. It was found by the said Mrs. Jones in the same place as the former letters, and sent by her to the said Adam Dugdale, who handed it to me. It is written on a detached piece of paper. And I state that the paper writing marked Qq purports to be an original letter from Matthias Aspden, the testator, to Mr. Andrew Aspden, in Old street, London. I do not know in whose handwriting it is. It was found by the said Mrs. Jones in the same place as the former letters, and sent by her to the late Adam Dugdale, who handed it to me. And I state that the paper writing marked Rr purports to be an original letter from Matthias Aspden to Mr. Andrew Aspden, in Old street, London. I do not know in whose handwriting it is. It was found by the said Mrs. Jones in the same place as the former letters, and sent by her to the late Adam Dugdale, who handed it to me. It is written on a detached piece of paper. And I state that the paper writing Ss purports to be an original letter from Margery Bailey to Mr. John Aspden, ivory turner, near the Golden Anchor, in Old street, London. I do not know in whose handwriting it is, nor whether it is an original letter or not. It was found by the said Mrs. Jones in the same place as the former letters, and sent by her to the said Adam Dugdale, who handed it to me. It is written on a detached piece of

paper. And I state that the paper writing marked Tt purports to be an original letter from the said Margery Bailey to Mr. Matthias Aspden, to the care of John Aspden, living in Old street, nigh the Golden Anchor, London. I do not know in whose handwriting it is, nor whether it is an original letter or not. It was found by the said Mrs. Jones in the same place as the former letters, and sent by her to the said Adam Dugdale, who handed it to me. It is written on a detached piece of paper. And I state that the paper writing marked Uu purports to be an original letter from the said Margery Bailey to Mr. John Aspden, ivory turner, near the Golden Anchor, Old street, London. I do not know in whose handwriting it is, nor whether it is an original letter or not. It was found by the said Mrs. Jones in the same place as the former letters, and sent by her to the said Adam Dugdale, who handed it to me. It is written on a detached piece of paper. And I state that the paper writing marked Vv purports to be an original letter from the said Margery Bailey to Mr. John Aspden, in Old street, near the Golden Anchor, ivory turner, London. I do not know in whose handwriting it is, nor whether it is an original letter or not. It was found by the said Mrs. Jones in the same place as the former letters, and was sent by her to the said Adam Dugdale, who handed it to me. It is written on a detached piece of paper. And I state that the paper writing marked Ww purports to be an original letter from the said Margery Bailey to Mr. John Aspden, in Old street, by the Golden Anchor, ivory turner, London. I do not know in whose handwriting it is, nor whether it is an original letter or not. It was found by Mrs. Jones in the same place as the former letters, and sent by her to the said Adam Dugdale, who handed it to me. It is written on a detached piece of paper. And I state that the paper writing marked Xx purports to be an original letter from the said Margery Bailey to Mr. John Aspden, ivory turner, in Old street, near the Golden Anchor, London. I do not know in whose handwriting it is, nor whether it is an original or not. It was found by the said Mrs. Jones in the same place as the former letters, and was sent by her to the said Adam Dugdale, who handed it to me. It is written on a detached piece of paper. And I state that the paper writing marked Yy purports to be an original letter from Matthias Aspden, the testator, to Mr. John Aspden, of Old street, London. I do not know in whose handwriting it is. It was found by the said Mrs. Jones in the same place as the former letters, and was sent by her to the said Adam Dugdale, who handed it to me. It is written on a detached piece of paper. And I state that the paper marked Zz purports to be an original letter from the said Margery Bailey to Mr. John Aspden, in Old street, near the Golden Anchor, ivory turner, London. I do not know in whose handwriting it is, nor whether it is an original or not. It was found by the said Mrs. Jones in the same place as the former letters, and was sent by her to the said Adam Dugdale, who handed it to me. It was written on a detached piece of paper. And I state that the paper writing marked aaa purports to be an original letter from William Aspden to Mr. John Asp-

den, ivory turner, near the Golden Anchor, in Old street, London. I do not know in whose handwriting it is. It was found by the said Mrs. Jones in the same place as the former letters, and was sent by her to the said Adam Dugdale, who handed it to me. It is written on a detached piece of paper. And I state that the paper writing marked bbb purports to be an original letter from Matthias Aspden, the testator, to Mr. John Aspden, of Old street. I do not know in whose handwriting it is. It was found by Mrs. Jones in the same place as the former letters, and was sent by her to the said Adam Dugdale, who handed it to me. It was written on a detached piece of paper. And I state that the paper writing marked ccc purports to be an original letter from Matthias Aspden, the testator, to Mr. John Aspden, Old street, London. I do not know in whose handwriting it is. It was found by Mrs. Jones in the same place as the former letters, and sent by her to the said Adam Dugdale, who handed it to me. It is written on a detacked piece of paper. And I state that the paper writing marked ddd purports to be an original letter from Matthias Aspden, the testator, but to whom it is addressed does not appear. I do not know in whose handwriting it is. It was found by Mrs. Jones' grandson, John Joseph Jones, before mentioned, in his house, No. 104, in Old street, and was handed by him to me on the 13 thirteenth September, one thousand eight hundred and forty-seven. It was written on a detached piece of paper. And I state that the paper writing marked eee purports to be part of an original letter from Andrew Aspden to his father, and was found by Mrs. Jones in the same place as the former letters, and sent by her to the said Adam Dugdale, who handed it to me. It is written on a detached piece of paper. I have stated my whole knowledge in relation to the said writings, annexed the same to my answer.

To the eleventh interrogatory of the plaintiff I answer as follows: I do not know, nor can I set forth, any other matter or thing which may be a benefit or advantage to the parties at issue in this cause, or either of them, or that may be material to the subject of this my examination, or the matters in question in this cause.

JAMES NEVILLE.

NAT. C. MILNE,
ALFRED KING,
Commiss'rs.

NAT. C. MILNE,
ALFRED KING,
Commiss'rs.

14th September, 1847.

The examination of witnesses on this fourteenth September, one thousand eight hundred and forty-seven, was commenced at ten o'clock in the forenoon, and was prosecuted without intermission until half-past three in the afternoon, at which time we had concluded the exam-

paper. And I state that the paper writing marked Tt purports to be an original letter from the said Margery Bailey to Mr. Matthias Aspden, to the care of John Aspden, living in Old street, nigh the Golden Anchor, London. I do not know in whose handwriting it is, nor whether it is an original letter or not. It was found by the said Mrs. Jones in the same place as the former letters, and sent by her to the said Adam Dugdale, who handed it to me. It is written on a detached piece of paper. And I state that the paper writing marked Uu purports to be an original letter from the said Margery Bailey to Mr. John Aspden, ivory turner, near the Golden Anchor, Old street, London. I do not know in whose handwriting it is, nor whether it is an original letter or not. It was found by the said Mrs. Jones in the same place as the former letters, and sent by her to the said Adam Dugdale, who handed it to me. It is written on a detached piece of paper. And I state that the paper writing marked Vv purports to be an original letter from the said Margery Bailey to Mr. John Aspden, in Old street, near the Golden Anchor, ivory turner, London. I do not know in whose handwriting it is, nor whether it is an original letter or not. It was found by the said Mrs. Jones in the same place as the former letters, and was sent by her to the said Adam Dugdale, who handed it to me. It is written on a detached piece of paper. And I state that the paper writing marked Ww purports to be an original letter from the said Margery Bailey to Mr. John Aspden, in Old street, by the Golden Anchor, ivory turner, London. I do not know in whose handwriting it is, nor whether it is an original letter or not. It was found by Mrs. Jones in the same place as the former letters, and sent by her to the said Adam Dugdale, who handed it to me. It is written on a detached piece of paper. And I state that the paper writing marked Xx purports to be an original letter from the said Margery Bailey to Mr. John Aspden, ivory turner, in Old street, near the Golden Anchor, London. I do not know in whose handwriting it is, nor whether it is an original or not. It was found by the said Mrs. Jones in the same place as the former letters, and was sent by her to the said Adam Dugdale, who handed it to me. It is written on a detached piece of paper. And I state that the paper writing marked Yy purports to be an original letter from Matthias Aspden, the testator, to Mr. John Aspden, of Old street, London. I do not know in whose handwriting it is. It was found by the said Mrs. Jones in the same place as the former letters, and was sent by her to the said Adam Dugdale, who handed it to me. It is written on a detached piece of paper. And I state that the paper marked Zz purports to be an original letter from the said Margery Bailey to Mr. John Aspden, in Old street, near the Golden Anchor, ivory turner, London. I do not know in whose handwriting it is, nor whether it is an original or not. It was found by the said Mrs. Jones in the same place as the former letters, and was sent by her to the said Adam Dugdale, who handed it to me. It was written on a detached piece of paper. And I state that the paper writing marked aaa purports to be an original letter from William Aspden to Mr. John Asp-

den, ivory turner, near the Golden Anchor, in Old street, London. I do not know in whose handwriting it is. It was found by the said Mrs. Jones in the same place as the former letters, and was sent by her to the said Adam Dugdale, who handed it to me. It is written on a detached piece of paper. And I state that the paper writing marked bbb purports to be an original letter from Matthias Aspden, the testator, to Mr. John Aspden, of Old street. I do not know in whose handwriting it is. It was found by Mrs. Jones in the same place as the former letters, and was sent by her to the said Adam Dugdale, who handed it to me. It was written on a detached piece of paper. And I state that the paper writing marked ccc purports to be an original letter from Matthias Aspden, the testator, to Mr. John Aspden, Old street, London. I do not know in whose handwriting it is. It was found by Mrs. Jones in the same place as the former letters, and sent by her to the said Adam Dugdale, who handed it to me. It is written on a detacked piece of paper. And I state that the paper writing marked ddd purports to be an original letter from Matthias Aspden, the testator, but to whom it is addressed does not appear. I do not know in whose handwriting it is. It was found by Mrs. Jones' grandson, John Joseph Jones, before mentioned, in his house, No. 104, in Old street, and was handed by him to me on the 13 thirteenth September, one thousand eight hundred and forty-seven. It was written on a detached piece of paper. And I state that the paper writing marked eee purports to be part of an original letter from Andrew Aspden to his father, and was found by Mrs. Jones in the same place as the former letters, and sent by her to the said Adam Dugdale, who handed it to me. It is written on a detached piece of paper. I have stated my whole knowledge in relation to the said writings, annexed the same to my answer.

To the eleventh interrogatory of the plaintiff I answer as follows: I do not know, nor can I set forth, any other matter or thing which may be a benefit or advantage to the parties at issue in this cause, or either of them, or that may be material to the subject of this my examination, or the matters in question in this cause.

JAMES NEVILLE.

NAT. C. MILNE,
ALFRED KING,
Commiss'rs.

NAT. C. MILNE,
ALFRED KING,
Commiss'rs.

14th September, 1847.

The examination of witnesses on this fourteenth September, one thousand eight hundred and forty-seven, was commenced at ten o'clock in the forenoon, and was prosecuted without intermission until half-past three in the afternoon, at which time we had concluded the exam-

ination in chief of James Neville. We, therefore, adjourn the further execution of this commission till to morrow, the fifteenth day of September, one thousand eight hundred and forty-seven, at eleven o'clock in the forenoon, to be then further prosecuted at this place.

NAT. C. MILNE,
ALFRED KING,
Commissioners.

15th September, 1847, 11 o'clock, a. m.

Law Societies' rooms, Chancery lane, in the city of London.

The further execution of this commission was resumed at this time and place, and the witness, James Neville, again appeared.

To the first cross interrogatory of John A. Brown, administrator of John Aspden, of Old street, London, which said cross interrogatories are filed by Thomas Aspden, of Philadelphia, executor of John Aspden, his father, of Lancashire, England, on behalf of himself and others, children and grand-children of the said John Aspden, of Lancashire, formerly petitioner in this cause, as sole heir-at-law of Matthias Aspden, the testator, I answer as follows: I don't known John A. Brown, of the city of Philadelphia, administrator of John Aspden, of Old street, London, petitioner in this cause.

To the second cross interrogatory I answer as follows: I did not personally know John Aspden, of Old street, London. I did know something of his history and family; he was the son of Andrew Aspden; his mother was Jenet Hindle; he was begotten and born in lawful wedlock; he married Mary Sanderson; he was not regarded as illegitimate; he always, I believe, bore the name of Aspden, and I also believe that his father always bore that name.

To the third cross interrogatory I answer as follows: I know that John Aspden, of Old street, London, was born in lawful wedlock, for I find, upon reference to his baptismal register, that he was baptized as the son of Andrew and Jane Aspden; he was born on the ninth March, one thousand seven hundred and thirty-nine, but I cannot tell where; he was married on the twenty-ninth November, one thousand seven hundred and sixty-seven, to Mary Sanderson, and he died on the twenty-second February, one thousand eight hundred and twenty-eight.

To the fourth cross interrogatory I answer as follows: I do know that John Aspden, of Old street, London, was related to Matthias Aspden, the testator, who died in London in August, one thousand eight hundred and twenty-four; I know this fact from having seen a number of letters addressed by the said Matthias Aspden to the said John Aspden, in which he addresses him as dear cousin. The said John Aspden, of London, was the son of Andrew, but I did not know the said Andrew; and I know that Andrew was of the same family with the testator, from searching several parish registers, and from the various letters which I have seen, and which have been annexed to my answers to the interrogatories in chief. The said Andrew was born in January, one thousand seven

hundred and ten, old style; was baptized on the fourteenth January, one thousand seven hundred and ten; was married on the fifth November, one thousand seven hundred and thirty-five, to Janet Hindle; he died on the sixteenth March, one thousand seven hundred and eighty-three, and was buried in St. Paul's church yard, Deptford, at the age of sixty-one years. Andrew, the alleged father of John, of London, was really named Aspden.

To the fifth cross interrogatory I answer as follows: I know that Andrew was the son of John, who was the brother of Matthias, who was the father of Matthias, the testator, from reference to the documents which are annexed to my answers to the interrogatories in chief, but I have no personal knowledge.

To the sixth cross interrogatory I answer as follows: I knew none of the alleged sons of Thomas Aspden, of Simonstone, Lancashire, (the alleged common ancestor,) but I do know that John, William, and Matthias were his sons, from the documents I have already referred to in my examination in chief, and which are annexed thereto; and for the same reason I know that John Aspden, of Kent, who died in January, one thousand seven hundred and fifty-four, was the brother of William Aspden, of Lancashire, who died in Lancashire much about the same time; and I do know that William, of Lancashire, and John, of Kent, were brothers, and that John was the eldest brother of the family, because I find that John was baptized at Padiham aforesaid on the fourth August, one thousand six hundred and eighty-nine, and that his brother William, of Lancashire, was also baptized at Padiham on the twenty-sixth July, one thousand six hundred and ninety-one. The parish registers of baptisms do not generally state the dates of births, but they do state the dates of marriages, baptisms, and burials; and I do connect, in point of relationship, John, of Kent, who died January thirtieth, one thousand seven hundred and fifty-four, with John Aspden, of London, (the father of Janet Jones and Mary Poole,) who died in March, one thousand eight hundred and twenty-eight, by the several extracts from the registry, inscriptions on tombstones, letters, and documents, annexed to my examination in chief.

To the seventh cross interrogatory I answer as follows: John Aspden, of London, was of the age of eighty-nine years or thereabouts when he died; he was aged about eighty-five or eighty-six years when he filed his bill against Henry Nixon in the chancery court of England, in one thousand eight hundred and twenty-five; the age of his alleged father, Andrew, at the time of the alleged birth of John of London, was twenty-nine years or thereabouts.

To the eighth cross interrogatory I answer as follows: I know that the Andrew Aspden, if Aspden, who died in Old street, London, and not at Deptford, but who was buried at Deptford, nineteenth September, one thousand seven hundred and seventy-one, and who is said to have been born fourteenth January, one thousand seven hundred and ten, was not the son of Thomas Aspden and Elizabeth Scroop; because in the register of baptism of the said Andrew, annexed to my

examination in chief, and marked with the letter B, he is described as the son of John Aspden; and I do not know that he who was buried at Deptford was born at Padiham.

To the ninth cross interrogatory I answer as follows: The said Andrew, the alleged father of John, of London, was born at Read aforesaid, and I believe he was born in January, one thousand seven hundred and ten, and was baptized at Padiham aforesaid, on the fourteenth January, one thousand seven hundred and ten, old style; was married at Saint Luke's church, in Old street, in the county of Middlesex, on the fifth November, one thousand seven hundred and thirty-five, and was buried at Saint Luke's aforesaid, on the nineteenth September, one thousand seven hundred and seventy-one, and his age was sixty-one years, or thereabouts.

To the tenth cross interrogatory I answer as follows: Andrew's alleged father, John, of Kent, was, I believe, born on or about the ninth of August, one thousand six hundred and eighty-nine, at Simonstone, aforesaid; was baptized on the fourth of August, one thousand six hundred and eighty-nine, at Padiham aforesaid; was married on the tenth April, one thousand seven hnndred and ten, old style, at Whalley, in Lancashire; was buried on the thirteenth of January, one thousand seven hundred and fifty-four, at Saint Paul's, Deptford, aforesaid. John, of London, was, I believe, born in Old street aforesaid, and baptized at Saint Luke's aforesaid. If John, the alleged grandfather of John, of London, resided in Kent, Andrew and Andrew's child or children (if he had more than one) resided at the same time in Old street aforesaid, as I believe. The parish registers and tombstones give the relationships to some extent, but I infer the relationships from one thousand six hundred and forty-eight to the present time, by the dates and names of the registers and monumental inscriptions, and the letters before referred to.

To the eleventh cross interrogatory I answer as follows: I do not know the age of John Aspden, of London, at the time of the death of his alleged great grandfather, Thomas. I think his age at the time of the death of his alleged grandfather, John, of Kent, was about fifteen years, and that his age at the time of the death of his alleged father, Andrew, who lived in Old street aforesaid, and not at Deptford, was thirty-two years or thereabouts. I know these matters from the extracts from the registry before referred to, and annexed to my examination in chief.

To the twelfth cross interrogatory I answer as follows: I do not know how many sons and daughters Thomas Aspden, of Simonstone, in Lancashire, left. I did not know the eldest son of the said Thomas; I did not know John Aspden, of Kent, nor William Aspden, of Great Harwood, Lancashire, nor Richard Aspden, of Lancashire; but I do know that John, of London, was the great grandson of Thomas, by rerson of the extracts from the registry and other documents before referred to in my examination in chief.

To the thirteenth cross interrogatory I answer as follows: I know

nothing of the John Aspdens inquired after by this interrogatory, except the John Aspden buried at Deptford, January thirtieth, (and not the thirty-first,) one thousand seven hundred and fifty-four; and John Aspden, laborer, from the workhouse, Deptford, who is the same John Aspden that was buried January thirtieth, one thousand seven hundred and fifty-four; John Aspden, who married at Whalley to Sarah Butterworth, April tenth, one thousand seven hundred and ten; and John Aspden, of London, the alleged heir of Matthias, the testator, said to be born on the twenty-second March, one thousand seven hundred and thirty-nine, but who was born on the ninth March, one thousand seven hundred and thirty-nine, and to have married Mary Sanderson on the twenty-ninth November, one thousand seven hundred and sixty-seven; and my knowledge of the John Aspdens lastly before named arises from the extracts from the registers, letters, and documents before referred to in my examination in chief. I believe that Mary Aspden, (formerly Sanderson,) wife of John, of London, died on the twenty-second March, one thousand seven hundred and eighty-one, and her age at that time was about thirty-nine years.

To the fourteenth cross interrogatory I answer as follows: The said Andrew Aspden, (who is the alleged father of John, of London, and the alleged son of John Aspden, of Kent,) I believe, was not reputed to be illegitimate, and I regard him as legitimate from the information I have derived from the registers, letters, and documents before referred to, and which are annexed to my examination in chief. His alleged father was married on or about the tenth April, one thousand seven hundred and ten, old style; and the said Andrew was baptized on the fourteenth day of January, one thousand seven hundred and ten, old style, being about nine months after the marriage of his parents. The mother of the said Andrew was Sarah Aspden, formerly of Butterworth. I did not know the father or the son; I don't know that Andrew was an only child, but I have no knowledge of any other.

To the fifteenth cross interrogatory I answer as follows: I have not, to any interrogatory in chief, testified that the person called John Aspden, of Kent, is the same person who is recorded as being born in Lancashire in August, one thousand six hundred and eighty-nine, and that he removed to Deptford, in Kent; but I believe he is the same person, and did so remove; but at what time, or of what age he was at the time of his alleged removal, or whether he was then single or married, I cannot tell; I don't know whether the alleged father continued in Lancashire; and if the said father of John, of Kent, married Elizabeth Scroop, in the year one thousand six hundred and eighty-eight, I do not know whose son was Richard, said to be baptized eighteenth March, one thousand six hundred and eighty-seven. I do not know whether there were other Thomas Aspdens who had sons named John and Richard besides that Thomas; and my knowledge that Thomas Aspden, the progenitor of Matthias, the testator, was also progenitor of the now alleged John Aspden, of Kent, the alleged son of Andrew Offiden, (the name Offiden being, as I believe, used in mistake for

Aspden,) is derived from the extracts from the registers, letters, and other documents before referred to in my examination in chief.

To the sixteenth cross interrogatory I answer as follows: I do not know whether the family of Thomas Aspden, of Simonstone, in Lancashire, was well known there; I am of that shire, and of that neighborhood; I have not heard any of that family speak of the emigration; I believe that the alleged John Aspden, of Kent, after his alleged removal from Lancashire, always continued in the said county of Kent. I do not know of any family letters to or from John, of Kent, to his father, or any of his alleged brothers, nor of any letters to or from his alleged two sisters, nor of any letters to or from the wife of the said John, nor of any other record of such removal from Lancashire to Kent, between one thousand seven hundred and ten and one thousand seven hundred and fifty-four.

To the seventeenth cross interrogatory I answer as follows: I know nothing of Thomas Aspden, the alleged common ancestor of John, of London, and John, of Lancashire. I am not sufficiently aged to have known William Aspden, his son. I do not know when the said Thomas died, nor do I know when his son William died. I believe the alleged grandfather of John, of London, died about ninety-three years ago. I cannot testify as to the personal identity of John, of Kent, and of John, the alleged emigrant.

To the eighteenth cross interrogatory I answer as follows: The family of Aspden, in Lancashire, I believe to be numerous, and that the alleged Aspden family, of London, is extinct as to males of that name, and also as to females of that name, and it is not nearly extinct in males and females of the alleged John Aspden, of London. The two sons of Janet Jones, and the two daughters of Janet Jones, together with Mary Pool, are not the only survivors of the blood or family of the alleged John Aspden, of London, as will appear by my answer to the next interrogatory.

To the nineteenth cross interrogatory I answer as follows: Janet Jones died on or about the twenty-ninth March, one thousand eight hundred and forty-one, leaving no child her surviving. Her age at the time of her death was about seventy-three years, and her mother was Mary Aspden, formerly Sanderson. She left no child surviving her, but she had a son of the name of John Joseph Jones, who died on or about the twenty eighth of February, one thousand eight hundred and twenty-nine, aged about thirty-six years, and several other children, who all died in their infancy, and unmarried. The said John Joseph Jones married, and had issue four children, viz: John Joseph Jones, Caroline Matilda Jones, Jennet Jones, and David Jones, all of whom are now living and unmarried, except the said John Joseph Jones and Janet Jones. The age of Mary Pool is about seventy-six years, and she has not any issue. Her mother was the said Mary Aspden, formerly Sanderson.

To the twentieth cross interrogatory I answer as follows: I did not know Matthias Aspden, the testator.

To the twenty-first cross interrogatory I answer as follows: I do not

know whether the said testator had or had not great doubts as to the legitimacy of the said John, of Old street, London, nor do I know what was his general deportment to that John, and to his alleged family, viz., Andrew and Mrs. Jones and Mrs. Pool.

To the twenty-second cross interrogatory I answer as follows: I do not know whether the said testator manifested his special regard or not towards William Aspden, of Great Harwood, Lancashire, as his elder uncle; nor whether the said Matthias Aspden, senior, the testator's father, did or did not do so likewise; nor do I know whether either of them did or did not manifest the least regard towards John, of London, or his children, or towards Andrew and his children; or any belief in the allegation that the alleged John, of Kent, was an emigrant elder brother, except so far as appears by the letters hereinbefore referred to in my examination in chief, wherein the said testator manifests great regard for the parties mentioned in the said letters, and more particularly as appears by the letters marked Kk, Ll, Nn, and Qq.

To the twenty-third cross interrogatory I answer as follows: I have read the inscription upon the tombstone at St. Paul's, Deptford, Kent, of that Andrew who is said to be the father of John, of Old street, London. It is stated upon that tombstone that he died September thirteenth, one thousand seven hundred and seventy-one, aged 63, (sixty-three.) All the words and figures on the said tombstone are as follows: "To the memory of Mr. Andrew Aspden, turner, of the parish of St. Luke, Old street, who departed this life September 13, 1771, aged 63 years. Also, of Miss Ann Aspden, who died on the 13th November, 1774, aged 3 years and 9 months." "And Miss Margery Aspden, died the 13th October, 1777, aged 4 years and 8 months."

"Miss Johanna Aspden died 29th July, 1780, aged 5 weeks. Mrs. Mary Aspden died 22d March, 1781, aged 39 years. Mrs. Jennet Aspden died 16th of March, 1783, aged 71 years. Mr. John Aspden, son of the aforesaid Andrew, died 22d February, 1828, aged 88 years."

"Mr. David Jones, son-in-law of the above, died 13th January, 1797, aged 35 years—and 3 of his children, who died in their infancy. Mr. John Joseph Jones, son of the above, died 28th February, 1829, in his 37th year."

If the said Andrew was aged sixty-three in September, one thousand seven hundred and seventy-one, it does not follow that he was baptized in one thousand seven hundred and eight; and I believe the said Andrew to be the same Andrew Aspden who is said to have been baptized at Padiham, Lancashire, on the fourteenth January, one thousand seven hundred and ten, old style; and my belief is founded on the probability that the inscription on the said tombstone, as to the age of the said Andrew, is incorrectly stated, and that it ought to have been sixty-one years of age. The tombstone at Deptford does not state the said Andrew to be the son of any particular person.

15th September, 1847.

The examination of witnesses was resumed at 11 o'clock in the

morning of this fifteenth day of September, 1847, and was prosecuted diligently till 4 o'clock in the afternoon; at which hour we had reached the twenty-fourth cross interrogatory to be administered to the witness, James Neville, and we adjourned the further execution of this commission till to-morrow, the 16th day of September inst., at 10 o'clock in the forenoon, to be then further prosecuted at this place.

Incorporated Law Society's rooms, Chancery lane, London.

NAT. C. MILNE,
ALFRED KING,
Commissioners.

16th September, 1847, 10 o'clock, a. m.

The further execution of this commission was resumed at this time and place, and the witness, James Neville, again appeared.

To the twenty-fourth cross interrogatory I answer as follows: I did not know the wife of the said John Aspden, alleged to be of Kent, formerly of Lancashire; her maiden name was Sarah Butterworth; I do not know her age at the time she bore her last child, nor do I know the number of her children, or their respective names, at the time of her death, but I believe she had but one child, viz., the said Andrew, who died in the year one thousand seven hundred and seventy-one; I do not know the year in which she died; she has no child now living.

To the twenty-fifth cross interrogatory I answer as follows: The father of the said John, I believe, spelt his surname Aspden, and I believe he always so spelled it; and my belief of that fact is founded on the signature of the said Andrew Aspden, in the fragment of a letter to his father, dated June twenty-fifth, one thousand seven hundred and twenty-nine, produced on my examination in chief, and marked eee, in which the said Andrew spells his surname with a long s, thus, "Aspden"; the father of the said John, of London, did not spell his name "Offiden," or in some similar way; there is not any s or any p in the said name of "Offiden;" the double f (ff) is quite distinct, and is so registered in the parish church of St. Luke's, London, in the county of Middlesex, on page 7 of that record.

To the twenty-sixth cross interrogatory I answer as follows: I have testified as to the copies in my answers to the ninth interrogatory in chief being accurate copies; but I do not mean thereby to say that they of themselves prove the deceased individuals therein mentioned to be related to the testator, or related to each other, in the chain designated in a pictorial representation or genealogical tree, other than in so far as the said copies specify the relationship of the said parties.

To the twenty-seventh cross interrogatory I answer as follows: I do not know anything of the alleged relationship except from the several copies of registers, original registers, letters, and documents, referred to by me in my examination in chief. I do not know that any of the parties named in such documents are related to the testator, except from the knowledge I have derived from the said registers, letters, and docu-

ments, and from conversations I have heretofore had with the late Mrs. Jenet Jones and other members of the family.

To the twenty-eighth cross interrogatory I answer as follows: I do mean by Bible entries, such entries as are made by persons knowing the events recorded, and recording them contemporaneously with the respective times, and also designed by the recorder to be evidential of the matters recorded.

To the twenty-ninth cross interrogatory I answer as follows: I do not know when John Aspden, of Lancashire, (the father of the now petitioner, Thomas,) went to the United States to prosecute his said claim as the heir-at-law under the will of his cousin, Matthias. I do not know his age when he went to Philadelphia, nor do I know when his son Thomas arrived there, but I believe he was there in or about the year one thousand eight hundred and twenty-seven, and is there at this time, and has been there prosecuting the said claim ever since that time; but whether that fact was known to John, of London, I cannot tell; but I believe it was known to Mrs. Jones and Mrs. Poole, though I cannot tell at what time they first became aware of it.

To the thirtieth cross interrogatory I answer as follows: I believe John Aspden, of London, or his children, Janet Jones and Mary Pool, had not any agent in the United States for the prosecution of the alleged claim from the death of the testator, in one thousand eight hundred and twenty-four, until the autumn of one thousand eight hundred and thirty-four, when Henry J. Williams and James S. Smith, esquires, were employed by and at the instance of the late Adam Dugdale, esquire, a relation of the said Janet Jones, and Mrs. Poole, to act on their behalf; but upon what particular terms the said Henry J. Williams and James S. Smith were so employed as aforesaid, I cannot now set forth, though I knew there was some arrangement or understanding come to between the said Adam Dugdale and the said Henry J. Williams and James S. Smith, as to the terms on which the said claim was to be prosecuted. The said Janet Jones and Mary Pool continued from the year one thousand eight hundred and thirty-four, to the year one thousand eight hundred and forty-six, to employ the said Henry J. Williams and James S. Smith, as long as they continued to act together, and afterwards on Mr. Smith's retirement they employed William B. Reed, esquire, and the said Henry J. Williams, as their agents in the United States; but such employment by them was a continuation of the employment or engagement originally made on their behalf by the said Adam Dugdale. The said Jones and Poole did not, nor did either of them, engage to pay the costs and expenses of such prosecution of the claim, though it was perfectly understood such costs were to be paid out of the funds to be recovered under such claim. There was a power of attorney sent by them to John A. Brown, esquire, in America. There was not any letter written to any such attorney-at law or attorney in fact by the said Jones and Poole, or either of them; but in my character of solicitor for the said Jones and Poole, in England, and as being duly authorized by them, I sent a let-

ler with the said power of attorney to the said Mr. Brown, or to the said Messrs. Williams and Smith. I believe the said Adam Dugdale, as the friend and agent of the said Jones and Poole, did address several letters to said John A. Brown in America, authorizing the said claim; and I, as the solicitor and agent of the said Jones and Poole, also addressed several letters to the said Messrs. Williams and Smith, and Williams and Reed, in America, also authorizing the said claim, and the prosecution thereof. The said Jones and Pool authorized all the letters and communications so written and made as aforesaid, though I cannot say whether or not they saw all or any of the said letters and communications; I have no recollection of having seen the letters addressed by Adam Dugdale to the said John A. Brown, and I cannot annex copies or state their general contents. I have drafts of several of my own letters written by me in my character of solicitor on behalf of my clients, and which being privileged communications, I decline to produce or annex copies. I cannot state of my own knowledge whether the said co-heiresses ever expended any money or contracted to do so in the prosecution of the said alleged claim, but I believe they have expended money in the prosecution of the said alleged claim to some small extent.

JAMES NEVILLE.

NATHANIEL C. MILNE,
ALFRED KING,
Commissioners.

I, Brown Collison, of Fleet street, in the city of London, senior clerk to Messrs. Hoare, bankers there, aged about seventy-five, being produced, sworn, and examined on behalf of the plaintiff, depose as follows:

To the first interrogatory on the part of the plaintiff I answer as follows: I do not know the parties, complainant and defendant, in the title of these interrogatories named, or either of them.

To the second interrogatory on the part of the plaintiff I answer as follows: I did not know any of the parties inquired after by this interrogatory, or where they resided.

To the third interrogatory on the part of the plaintiff I answer as follows: I do not know any of the parties, or any of the matters or things, inquired after by this interrogatory.

To the fourth interrogatory on the part of the plaintiff I answer as follows: I do not know anything of the matters inquired after by this interrogatory.

To the fifth interrogatory on the part of the plaintiff I answer as follows: I did know Matthias Aspden, the testator above named. I knew him from the year one thousand seven hundred and ninety-five to the time of his death, in King street, Holbourn, where he lodged and died.

To the sixth interrogatory on the part of the plaintiff I answer as follows: I do not know anything of the matters inquired after in this in-

terrogatory, and I was not, in the slightest degree, acquainted with any of the family or connexions of the said Matthias Aspden.

To the seventh interrogatory on the part of the plaintiff I answer as follows: I have seen several letters written by the said Matthias Aspden, but not to the said Matthias Aspden, nor by any member of his family, but to members of his family, nor by or to any member of the family of the said John Aspden. The several letters now produced and shown to me, marked with the figures 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, I annex to my answers. I do not know whence those letters came, but they are in the handwriting of the said Matthias Aspden, as I have frequently seen him write, and thereby became well acquainted with his handwriting; and my means of knowledge, besides having seen him write, are, that he kept an account with Messrs. Hoare for many years, and I have frequently seen his drafts, as they came before me, the day after they were paid, for examination.

To the eighth interrogatory on the part of the plaintiff I answer as follows: I do not know anything of the matters and things inquired after by this interrogatory.

To the ninth interrogatory on the part of the plaintiff I answer as follows: I do not know anything of the matters and things inquired after by this interrogatory.

To the tenth interrogatory on the part of the plaintiff I answer as follows: I do not know anything of the matters and things inquired after by this interrogatory.

To the eleventh interrogatory on the part of the plaintiff I answer as follows: I do not know any other matter or thing which may be a benefit or advantage to the parties at issue in this cause, or either of them, or that may be material to the subject of this my examination, or the matters in question in this cause.

To the first cross interrogatory I answer as follows: I do not know John A. Brown, of the city of Philadelphia, administrator of John Aspden, of Old street, London, petitioner in this cause.

To the second cross interrogatory I answer as follows: I did not personally know John Aspden, of Old street, London; nor do I know anything whatever of any of the other matters or things inquired after by this interrogatory, and cannot depose thereto.

To the third cross interrogatory I answer as follows: I know nothing whatever of any of the matters and things inquired after by this interrogatory, and cannot depose thereto.

To the fourth cross interrogatory I answer as follows: I know nothing whatever of any of the matters and things inquired after by this interrogatory, and cannot depose thereto.

To the fifth cross interrogatory I answer as follows: I know nothing whatever of any of the matters or things inquired after by this interrogatory, and cannot depose thereto.

To the sixth cross interrogatory I answer as follows: I know nothing whatever of any of the matters or things inquired after by this interrogatory, and cannot depose thereto.

To the seventh cross interrogatory I answer as follows: I know nothing whatever of any of the matters or things inquired after by this interrogatory, and cannot depose thereto.

To the eighth cross interrogatory I answer as follows: I know nothing whatever of any of the matters or things inquired after by this interrogatory, and cannot depose thereto.

To the ninth cross interrogatory I answer as follows: I know nothing whatever of any of the matters or things inquired after by this interrogatory, and cannot depose thereto.

To the tenth cross interrogatory I answer as follows: I know nothing whatever of any of the matters or things inquired after by this interrogatory, and cannot depose thereto.

To the eleventh cross interrogatory I answer as follows: I know nothing whatever of any of the matters or things inquired after by this interrogatory, and cannot depose thereto.

To the twelfth cross interrogatory I answer as follows: I know nothing whatever of any of the matters or things inquired after by this interrogatory, and cannot depose thereto.

To the thirteenth cross interrogatory I answer as follows: I know nothing whatever of any of the matters or things inquired after by this interrogatory, and cannot depose thereto.

To the fourteenth cross interrogatory I answer as follows: I know nothing whatever of any of the matters or things inquired after by this interrogatory, and cannot depose thereto.

To the fifteenth cross interrogatory I answer as follows: I know nothing whatever of any of the matters or things inquired after by this interrogatory, and cannot depose thereto.

To the sixteenth cross interrogatory I answer as follows: I am not of Lancashire, and I know nothing whatever of any of the other matters or things inquired after by this interrogatory, and cannot depose thereto.

To the seventeenth cross interrogatory I answer as follows: I know nothing whatever of any of the matters or things inquired after by this interrogatory, and cannot depose thereto.

To the eighteenth cross interrogatory I answer as follows: I know nothing whatever of any of the matters or things inquired after by this interrogatory, and cannot depose thereto.

To the nineteenth cross interrogatory I answer as follows: I know nothing whatever of any of the matters or things inquired after by this interrogatory, and cannot depose thereto.

To the twentieth cross interrogatory I answer as follows: I knew Matthias Aspden, the testator, but he never manifested, in any way, or on any occasion, any belief of the illegitimacy of that Andrew, for I never had any conversation whatever with him as to his family, and I know nothing whatever of any of the other matters or things inquired after by this interrogatory, and cannot depose thereto.

To the twenty-first cross interrogatory I answer as follows: I know

nothing whatever of any of the matters or things inquired after by this interrogatory, and cannot depose thereto.

To the twenty-second cross interrogatory I answer as follows: I know nothing whatever of any of the matters or things inquired after by this interrogatory, and cannot depose thereto.

To the twenty-third cross interrogatory I answer as follows: I know nothing whatever of any of the matters or things inquired after by this interrogatory, and cannot depose thereto.

To the twenty-fourth cross interrogatory I answer as follows: I know nothing whatever of any of the matters or things inquired after by this interrogatory, and cannot depose thereto.

To the twenty-fifth cross interrogatory I answer as follows: I know nothing whatever of any of the matters or things inquired after by this interrogatory, and cannot depose thereto.

To the twenty-sixth cross interrogatory I answer as follows: I know nothing whatever of any of the matters and things inquired after by this interrogatory, and cannot depose thereto.

To the twenty-seventh cross interrogatory I answer as follows: I know nothing whatever of any of the matters and things inquired after by this interrogatory, and cannot depose thereto.

To the twenty-eighth cross interrogatory I answer as follows: I know nothing whatever of any of the matters and things inquired after by this interrogatory, and cannot depose thereto.

To the twenty-ninth cross interrogatory I answer as follows: I know nothing whatever of any of the matters and things inquired after by this interrogatory, and cannot depose thereto.

To the thirtieth cross interrogatory I answer as follows: I know nothing of any of the matters and things inquired after by this interrogatory, and cannot depose thereto.

BROWN COLLISON.

NATH. C. MILNE,
ALFRED KING,
Commissioners.

NATH. C. MILNE,
ALFRED KING,
Commissioners.

Exhibits.

Padiham, in the county of Lancaster and diocese of Chester.

"June, 1704.

Margery D., of Thomas Aspden, of Symonstone, baptized ye 4th."

Examined and found a correct copy, August 24, 1847. J. N.

The above is a true copy of the baptismal registry in the church of Padiham, as witness my hand, the 19th August, 1847.

S. F. C. ADAMSON, *Incumbent.*

PACKER
vs.
TROTTER, &c.

This is the paper exhibit or document referred to by James Neville, in his examination, as the paper marked A, and was shown to, and by him deposed unto, at the time of his examination on the part of the plaintiff, this fourteenth day of September, 1847.

JAMES NEVILLE.

NATHANIEL C. MILNE,
ALFRED KING,
Commissioners.

Padiham, in the county of Lancaster and diocese of Chester.

1689.

John, ye son of Thomas Aspden, bapt. ye 4th of Aug.

1691.

William, son of Thomas Aspden, of Symonstone, bapt. July 26th.

May, 1693.

Matthias, ye son of Thomas Aspden, of Symonstone, baptized ye 14th.

January, 1710.

Andrew, son of Jon Aspden, of Read, bapt. ye 14th.

The above are correct copies of the baptismal register in the church of Padiham, as witness my hand this 24th July, 1834.

S. I. C. ADAMSON, *Incumbent.*

Compared and found correct, same day.

JAMES NEVILLE.

1834, July 25. Extracts from the Padiham register.

PACKER
vs.
TROTTER, &c.

This is the paper exhibit or document referred to by James Neville, in his examination, as the paper marked B, and was shown to, and by him deposed unto, at the time of his examination on the part of the plaintiff, this fourteeenth of September, 1847.

JAMES NEVILLE.

NATHANIEL C. MILNE,
ALFRED KING,
Commissioners.

De nuptiis anno domini 1710.

Johannes Aspden de Worston et Sarah Butterworth de Read, nuptiæ celebrat fuerint decimo Aprili

WHALLEY, *July* 24, 1834.

The above is a true extract from the marriage register in the church of Whalley, as witness my hand.

JAMES NEVILLE.

PACKER
vs.
TROTTER, &c.

This is the paper exhibit or document referred to by James Neville, in his examination, as the paper marked C; and was shown to, and by him deposed unto, at the time of his examination on the part of the plaintiff, this fourteenth day of September, 1847.

JAMES NEVILLE.

NATH. C. MILNE,
ALFRED KING,
Commissioners.

Extracts from register.

(Page 7.)

Marriages solemnized in the parish of St. Luke, in the county of Middlesex, in the year 1735.

"Andrew Offiden, of ——— parish, and Jenet Hindle, of ——— parish, were married in this church by ——— banns, with consent of ———, this fifth day of November, in the year one thousand seven hundred and thirty-five, by me.

——— ———.

This marriage was solemnized between us, ———.
In the presence of ———.
No. —."

The above is a copy of the marriage register of the parish aforesaid. Extracted this 5th day of August, 1834, by me.

EDWARD C. TRACY,
Parish clerk and reg. keeper.

Compared with the original entry, Aug. 5, 1834, and found correct.

J. N.

PACKER
vs.
TROTTER, &c.

This is the paper exhibit or document referred to by James Neville, in his examination, as the paper marked D, and was shown to, and by him deposed unto, at the time of his examination on the part of the plaintiff, this fourteenth day of September, 1847.

JAMES NEVILLE.

NATH. C. MILNE,
ALFRED KING,
Commissioners.

"Marriages in the parish of St. Luke, in the county of Middlesex, in the year 1735.

Andrew Offiden and Jenat Hindle. Banns, Nov. 5th."

Extracted this 8th day of August, 1834, by me.

EDWARD C. TRACY,
Parish clerk and reg. keeper.

Compared same day and found correct.

PACKER
vs.
TROTTER, &c.

This is the paper exhibit or document referred to by James Neville, in his examination, as the paper marked E, and was shown to, and by him deposed unto, at the time of his examination on the part of the plaintiff, this fourteenth day of September, 1847.

JAMES NEVILLE.

NATH. C. MILNE,
ALFRED KING,
Commissioners.

Page —.

Baptisms solemnized in the parish of Saint Luke, in the county of Middlesex, in the year 1739.

When baptized.	Child's christian name.	Parents' name.		Abode.	Quality, trade, or profession.	By whom ceremony was performed.
		Christian.	Surname.			
1739. March 22d. Born March 9th.	John S. of	Andrew and Jane.	Asbin.		Cheese-monger.	

Extracted from the register book of the above parish, the 5th day of August, 1834, by me. EDWARD C. TRACEY,
Parish clerk and register keeper.

Compared with the original entry, August 5th, 1834, and found correct. J. N.

PACKER
vs.
TROTTER, &c.

This is the paper exhibit or document referred to by James Neville, in his examination, as the paper marked F, and was shown to, and by him deposed unto, at the time of his examination on the part of the plaintiff, this fourteenth day of September, 1847.

JAMES NEVILLE.

NATH. C. MILNE,
ALFRED KING,
Commissioners.

Vol. I. Page 124.

Buried 1754, Jan.

30—John Aspin, laborer, from the workhouse.

A true copy from the register of burials of the parish of St. Paul, Deptford, Kent.

B. S. FFINCH, *Rector.*

E. MASTERS, *printer, Deptford.*

Compared with the original entry, Aug. 4th, 1834, and found correct.

J. N.

PACKER
vs.
TROTTER, &c.

This is the paper exhibit or document referred to by James Neville, in his examination, as the paper marked G, and was shown to, and by him deposed unto, at the time of his examination on the part of the plaintiff, this fourteenth day of September, 1847.

JAMES NEVILLE.

NATH. C. MILNE,
ALFRED KING,
Commissioners.

(Page 51.)

"Marriages solemnized in the parish of St. Botolph, Aldersgate, in the year one thousand seven hundred and sixty-seven.

"John Aspden, of the parish of St. Luke, in the county of Middlesex, batchelor, and Mary Saunderson, of this parish, spinster, were married in this church, by license, with consent of , this twenty-ninth day of November, in the year one thousand seven hundred and sixty-seven, by me.

"J. MORE, *Curate.*

"This marriage was solemnized between us.

"JOHN ASPDEN,
"MARY SAUNDERSON.

"In the presence of—
"WILLIAM SAUNDERSON,
"THOMAS SAUNDERSON."

No. 206.

I certify the above to be a true copy, extracted this 5th day of August, 1834.

E. N. PENNY, *Offg. minst.*

(For certificate see next page.)

6th Aug., 1834.—Compared and found correct.

J. N.

PACKER
vs.
TROTTER, &c.

This is the paper exhibit or document referred to by James Neville, in his examination, as the paper marked H, and was shown to, and by him deposed unto, at the time of his examination on the part of the plaintiff, this fourteenth day of September, 1847.

JAMES NEVILLE.

NATH. C. MILNE,
ALFRED KING,
Commissioners.

"ST. BOTOLPH, ALDERSGATE.

These are to certify, that Jennet D., of John and Mary Aspden, was born the 11th day of September, one thousand seven hundred and sixty-eight, and baptized the 9th day of October, as appears by the register book of christenings belonging to this parish, and extracted from the said register book this 6th day of August, 1834.

E. H. PENNY, *Offg. minst.*"

Same day compared and found correct. J. N.

MASTERS, printer, *Aldersgate street.*

PACKER
vs.
TROTTER, &c.

This is the paper exhibit or document referred to by James Neville, in his examination, as the paper marked I, and was shown to,

and by him deposed unto, at the time of his examination on the part of the plaintiff, this fourteenth day of September, 1847.

JAMES NEVILLE.

NATH. C. MILNE,
ALFRED KING,
Commissioners.

"ST. BOTOLPH, ALDERSGATE.

These are to certify, that Mary D., of John and Mary Aspden, was born the 28th day of November, one thousand seven hundred and sixty-nine, and baptized the seventeenth day of December, as appears by the register book of christenings belonging to this parish, and extracted from the said register book this 6th day of August, 1834.

E. H. PENNY, *Offg. minst.*"

Same day compared and found correct.—J. N.

MASTERS, printer, *Aldersgate street.*

PACKER
vs.
TROTTER, &c.

This is the paper exhibit or document referred to by James Neville, in his examination, as the paper marked K, and was shown to, and by him deposed unto, at the time of his examination on the part of the plaintiff, this fourteenth day of September, 1847.

JAMES NEVILLE.

NATH. C. MILNE,
ALFRED KING,
Commissioners.

Vol. I, page 227.

"Buried, Sept., 1771, 19.

Andrew Aspden, from London."

A true copy from the register of burials of the parish of St. Paul, Deptford, Kent.

B. S. FFINCH,
Rector.

E. MASTERS, printer, *Deptford.*

Compared with the original entry, August 6, 1834, and found correct.

J. N.

PACKER
vs.
TROTTER, &c.

This is the paper exhibit or document referred to by James Neville, in his examination, as the paper marked L, and was shown to, and by

him deposed unto, at the time of his examination on the part of the plaintiff, this fourteenth day of September, 1847.

JAMES NEVILLE.

NAT. C. MILNE,
ALFRED KING,
Commissioners.

VOL. 5.	PAGE 96.			YEAR 1828.
Name.	Place of abode.	When buried.	Age.	By whom the ceremony was performed.
Aspden John No. 762.	St. Luke, Middlesex.	March 1.	88.	B. S. Ffinch, Curate.

The above is a true copy from the register of burials of the parish of St. Paul, Deptford, Kent.

B. S. FFINCH, *Rector.*

E. MASTERS, printer, *Deptford.*

Compared with the original entry, August 5th, 1834, and found correct. J. N.

PACKER
vs.
TTOTTER, &c.

This is the paper exhibit or document referred to by James Neville, in his examination, as the paper marked M, and was shown to, and by him deposed unto, at the time of his examination on the part of the plaintiff, the fourteenth day of September, 1847.

JAMES NEVILLE.

NAT. C. MILNE,
ALFRED KING,
Commissioners.

August 4, 1834.

Copied from a headstone, in St. Paul's churchyard, Deptford.

"To the memory of Mr. Andrew Aspden, turner, of the parish of St. Luke, Old street, departed this life September the 13th, 1771, aged 63 years.

Also of Miss Anna Aspden, who died on the 13th day of Nov., 1774, aged 3 years and 9 months; and Miss Margery Aspden, died the 13th Oct., 1777, aged 4 years and 8 months.

Miss Elizabeth Aspden, died the 9th July, 1780, aged 2 years and 8 months."

East side of headstone, copied August 5th, 1833.

"Miss Johannah Aspden, died 27th July, 1780, aged 5 weeks.

Mrs. Mary Aspden, died 22d March, 1781, aged 39 years.

Mrs. Jennet Aspden, died 16th March, 1783, aged 71 years.

Mr. John Aspden, son of the aforesaid Andrew, died 22d February, 1828, aged 88 years.

Mr. David Jones, son-in-law of the above, died 13th January, 1797, aged 35 years.

And 3 of children, who died in their infancy.

Mr. John Joseph Jones, son of the above, died 28th February, 1829, in his 37th year."

Aa.

PACKER
vs.
TROTTER, &c.

This is the paper exhibit or document referred to by James Neville in his examination as the paper marked Aa, and was shown to, and by him deposed unto, at the time of his examination on the part of the plaintiff, this fourteenth day of September, 1847.

JAMES NEVILLE.

NAT. C. MILNE,
ALFRED KING,
Commissioners.

Copies of entries in the late John Aspden's bible relative to his family.

"Thursday.

Now Mrs. Jones. Jennet Aspden was born September 15, 1768, about half an hour after nine in the morning; baptized the 9th of October.

Tuesday.

Now Mrs. Poole. Mary Aspden was born November 28th, 1769, about half an hour after seven o'clock in the morning; baptized the 17th December.

Friday.

Died, see next page. Ann Aspden, born February 22d, 1771, at six o'clock in the morning; baptized the 17th March.

Do. Margery Aspden was born Sunday, February 14th, 1773, about three o'clock in the afternoon; baptized 14th of March.

Do. Elizabeth Aspden was born Friday, November 21st,

1777, about two o'clock in the afternoon; baptized Sunday, 14th of December.

Do. Johanna Aspden, was born Thursday, June 22d 1780, about half after one o'clock in the morning; baptized Wednesday, 26th of July.

Ann Aspden died November 13th, 1774, aged three years and nine months, Saturday.
Interred Thursday, November 17th, at St. Paul's church, Deptford.

Margery Aspden died October 13th, 1777, aged four years and eight months.
Monday morning, half after four o'clock.
Interred Sunday, October, 1777, at St. Paul's, Deptford.

Elizabeth Aspden died July 9th, 1780, aged two years and eight months.
Sunday afternoon, half after four o'clock.
Interred Thursday, July 13th, at St. Paul's church, Deptford.

Johanna Aspden died July 27th, 1780, aged five weeks.
Thursday morning, half after one o'clock.
Interred Sunday, July 30th, at St. Paul's church, Deptford, 1780.

Mrs. Mary Aspden, my wife, died March 22d, 1781.
Thursday morning, half an hour after seven o'clock, aged thirty-nine years.
Interred Wednesday 28th, at St. Paul's church, Deptford, 1781, March.

Mrs. Jennet Aspden, my mother, died March 16th, 1783, Sunday evening after eight o'clock, aged seventy-one years.
Interred Sunday, March 23, at St. Paul's church, Deptford, 1783."

[Endorsed.]

"Copies of entries in the late John Aspden's bible relative to his family."

PACKER
vs.
TROTTER.

This is the paper exhibit or document referred to by James Neville, Bb, in his examination as the paper marked, and was shown to, and by him deposed unto, at the time of his examination on the [part of the] plaintiff this fourteenth day of September, 1847.

JAMES NEVILLE.

NATHANIEL C. MILNE,
ALFRED KING,
Commissioners.

Letter from Margery Bailey to Andrew Aspden.

"SIMONSTONE, *May 25th*, 1768.

NEPHEW ASPDEN: I received yours from cousin William Aspden, Harwood, wherein I find your son has got married. I have sent to inquire into the state of your sister's family, and I find she is left a widow; her husband died about the first of this month, and when the letter came from her, he and one child was badly in a fever; the youngest child is a boy—is about eight years of age. I considered you would contribute a little to her assistance. If you was to take this boy I mention, would in a few years be serviceable to you, if he turns out well, and your growing into years, would be very useful to you and your wife upon a many occasion. I heard you had written to Blackburne, to inquire about taking a house or buying one. I could be glad you'd come to settle in the country. Accept of my compliments to yourself and your wife, and also John and his wife, from your loving aunt,

He married 29th Nov., 1767.

MARGERY BAILEY.

P. S. Your cousing William Aspden gives his compliments to you and your wife, and John and his wife, and desires you'l be kind enough to present his compliments and his wife's to Bartholomew Hendle and family, the first opportunity; Robert Sagor and his family give their compliments to William Sagor and sister and to you and your wife. Aunt Mary Aspden desires her compliments to you and your wife, and much obliged to you for yours in your last.

I am, &c., MARGERY BAILEY."

Mr. C. Hendle says, Dec. 29th, 1635, B. Hendle was brother to Mr. C. Hendle's grandfather.

Addressed: "To Mr. Andrew Aspden, in Old street, next door but one to the Golden Anchor, London."

Examined with original. J. G.

PACKER
vs.
TROTTER, &c.

This is the paper exhibit or document referred to by James Neville in his examination as the paper marked Cc, and was shown to, and by him deposed unto, at the time of his examination on the part of the plaintiff, the fourteenth day of September, 1847.

JAMES NEVILLE.

NATHANIEL C. MILNE,
ALFRED KING,
Commissioners.

Copy of original letter from testator to plaintiff, John Aspden's father, addressed to plaintiff from America.

PHILADELPHIA, *Oct. 29th*, 1768.

"DEAR COZ'N: Though not favored with an answer to my letter

yet, as good an opportunity I could not miss of advising you of my health and welfare, of which you may be more particularly acquainted by a call on Captain Sparks, at the Pennsylvania coffee-house, any time when you are passing by, before he returns. I should have sent you a few things from hence, but the trouble you would have in getting them ashore would render them too dear a present to be acceptable; I must therefore content myself with an inquiry whether you be living and well, and how cousin John does.

As for myself, I am settled in the seat of business, and in the house [where] my father formerly resided, where I propose carrying it on in the course of a year, when I may be beneficial to you for articles in our way, though we have little encouragement here to carry on business, from the scarcity of cash; and the many restrictions your people lay on our trade, burden us sufficiently, without taking away the little remains of money we have without our consent. This latter is the cause that makes the hubbub and noise in America, of which we so grievously complain. For the sake of your better understand-[ing], I shall explain, in a few words: first, in each of the provinces throughout [the] continent, there is a governor appointed by or with his majesty's consent, who represents him, and exercises, in some measure, the prerogative of the crown; secondly, there is his council, whom he consults (like his majesty) upon all cases of emergency; thirdly, there is the assembly, which is the same as the house of commons in England; this assembly, as we call it here, is made up, the same as England, of members from every county and town that has a right to send, who represent the people there, make the laws according to their charter, as near those of England as they can, consistent with the constitution of their country; these laws, when passed the house, are sent to the governor to sign, who generally consults his council on the occasion, and if approved, signs them; if returned, not binding. When this is done, they are immediately transmitted home, to be confirmed by the king and council, who *has* a second negative voice, and may, if not agreeable, reject them. Now, as it is necessary to have the king and council consent to the passing a law, so is it absolutely necessary to have the consent of the commons to make one; for in England, were his majesty and council to pass a law without the consent of both houses, and to enforce with force would be unjust, and contrary to the English constitution, on which ours is founded; for the two houses represent the nobles and people, who would loudly exclaim against such arbitrary proceedings, that threatens a breach of their privileges, and total subversion of all liberty, which was the case with us; for the administration passed [a] law called the Stamp Act, without the consent of our assembly, who were never consulted on [the] occasion. Now, this Stamp Act was a duty laid upon all bond, mortgages, and other instruments of writing, which tax was to have been paid in silver, and that remitted to England, which, in a few years, would have taken from us all our silver. However, this was but a trifle, in competition with breach of our privileges; for if the parliament of

England can make laws for us, what occasion have we for an assembly; but how should the parliament of England know what is proper for us, when not one in twenty ever *see* America.

Again: you will observe that this law was made by people who paid no part of the tax themselves; therefore, whatever taxes they laid upon America never affected them. Suppose Lancashire said she had a right to tax Yorkshire when she pleased, but in reality had not, yet did do it against their consent, to what state then would Yorkshire be reduced to, if Lancashire could take their money from them, when they . . . by taxing articles they are obliged to use, without their consent—why, to the most abject slavery; such slavery as every honest American holds in as high distation as any Englishman whatever. So it is that England attempts to tax America; and if they have a right to make us pay one penny, they have a right to make us pay to them all that we have, quite contrary to the lawful way they made use of before, that of requesting our governor and assembly to raise such sums as they could afford, without oppressing the people, and in what manner they saw most proper; which they did all long last war, even to sixty thousand more than their quota, and which we are still willing to do. I could go a good deal further, and explain to you some more of our grievances, but I should trespass on your patience. Give me kind love to cousin Jennet and John; and be kind enough, either you or John, first opportunity, to write me, from whom I shall be well pleased to hear. I am, your affectionate kinsman,

MATTH'S ASPDEN.

P. S. Through mistake, I have wrote to your father, but directed it to you; however, if it comes to hand, it is all I wish."

Addressed "to Mr. JOHN ASPEN,
Old street, London."

Per Mary and Elizabeth, Captain Sparks.

Note.—The above letter was in the possession of plaintiff; it has the post mark, and can be proved to be in the testator's handwriting.

J. G.

PACKER
vs.
TROTTER, etc.

This is the paper exhibit or document referred to by James Neville, in his examination, as the paper marked Dd, and was shown to, and by him deposed unto, at the time of his examination on the part of the plaintiff, this 14th day of September, 1847.

JAMES NEVILLE.

NATHANIEL C. MILNE,
ALFRED KING.
Commissioners.

(Endorsed) as follows:

In chancery.

ASPDEN
vs.
NIXONS d. ors.

Revived,

JOINES
vs.
SAME.

GRESSON,
Temple.

Copies of letters in possession of the plaintiff, John Aspden, deceased, for Mr. Neville, 16th December, 1847."

In chancery.

ASPDEN
vs.
NIXON.

Copies of letters in possession of the plaintiff, John Aspden, deceased.

Letter from Jenat Hindle to Andrew Aspden, (whom she afterwards married.)

ANDREW: I have received yours, and am still very glad to hear you are well, but I am still in an indifferent state of health; and therefore, if I do not enjoy an old sweet heart, be sure I shall not meddle with a new one; it may chance to be your lot to leave an old, and take a new; but I, for my part, I'm fully resolved not to engage with a new, having no reason that I know of yet to set light by an old one. I'm very glad to hear you was so hearty when Edward Brown came up, and I wish you the same; still, though in my last, you might perhaps think I writ a little harshly, yet I would not have you construe it that my affections were ever the less; but as you may think by your own cas, what is the malady of my distemper, with long absence makes one's spirits not always the same; for, indeed, I did then question whether I might have lived to have seen you again or no, but hopes now it may happily chance, and till then I wish you as much happiness as I do my own self; and still it rejoices me when I see a line from you, which I hope at your leisure you will still continue to your assured well wisher,

JENAT HINDLE.

Harwood Magna, May 5th, 1734.

All the news worth mentioning is, we have lost two neighbors. Thomas Critchley's wife and John Tippin's wife are both death; the directions are lost, and I was forced to direct for Mr. Hindle. Pray send directions when you write."

(The bottom of the paper is cut off close to the writing.—T. G.)

Addressed: "For Mr. Andrew Aspden, to be left with Mr. James Hindle, near Whittington and Cat, in Bloomsberry market, London."

Examined with the original.

N. B. This letter has the post mark, but the handwriting cannot be proved at this time. It is most probable she got some person to write it for her, as it does not appear to be a woman's hand. T. G.

PACKER
vs.
TROTTER, etc.

This is the paper exhibit or document referred to by James Neville, in his examination, as the paper marked Ee, and was shown to, and by him deposed unto, at the time of his examination on the part of the plaintiff, this fourteenth day of September, 1847.

JAMES NEVILLE.

NATHANIEL C. MILNE,
ALFRED KING,
Commissioners.

Copy. Letter from Wm. Aspden, of Harwood, to his aunt Margery Bailey, then in London.

LOVING AUNT: This day I happened to come to Blackburn, and I meet with a letter directed to William Aspden, (but neither senior nor junior,) but I could but imagine that it was mine; when broken open, I found it was for uncle William, and I understand my uncle is very badly of himself, which I am very sorry for. I wrote a letter this day fortnight to uncle, to hear how he went on, but could not get any answer, and one before to you, but received none; therefore, I see mine have disobliged you, which I am sorry for. I have been always as glad of your letters as if I had found a jewel, and I could certainly have paid for one from London as one from Philadelphia, but your will be done; if cousin John had been living, I should not have lacked one; and I never received one but I always communicated it to uncle William, but I never heard any thing of his, that you sent, when first you arrived. In the letter you sent last to uncle William, you desire to know something about the shilling that was sent by uncle Hindle from cousin Aspden; my uncle on his deathbed told me about it, and Bartholomew wrote to me about it; we have drank it; I, uncle William, William, his wife and two sons, which, for my part, I give cousin Aspden many thanks, and should be glad to hear every now and then from him; my compliments to cousin Aspden [and] his wife, and let him know that Richard Haydock is buried this day. Mr. Storkie died about a fortnight ago, and has left Thomas Ainsworth two shillings per week, and a house during his natural life, and all his land to one Lawyer Storkie, of London. If you write, I shall gladly receive it; if not, your will be done.

I am, in haste, your loving cousin,

WILLIAM ASPDEN.

Harwood, December 1st, 1760."

Addressed "to Mrs. Margery Baily, at Mr. Andrew Aspden's, next door but one to the Golden Anchor, in Old street, London."

Postmarked "Preston."

PACKER
vs.
TROTTER.

This is the paper exhibit or document referred to by James Neville, in his examination, as the paper marded Ff, and was shown to, and by him deposed unto, in his examination on the part of the plaintiff, this fourteenth day of September, 1847.

JAMES NEVILLE.

NATHANIEL C. MILNE,
ALFRED KING,
Commissioners.

WHALLEY, *September 21st*, 1761.

Copy of letter from testator's father, in Lancashire, to Andrew Aspden, plain'ff's father, in London.

Andrew Aspden, I hope these lines will find you, wife, and son, [in] good health, as we are at present. This is to inform you that your uncle William died the 19th instant, after a long, tedious illness; and your cousin, William Aspden, junior, his child, died in the morning of the same day, and was buried yesterday. Your uncle is to be buried to-morrow; and your aunt Margery, and aunt Martha Aspden, and her children, joins with us in their love to you, wife, and son.

MATTHIAS ASPDEN,
Senior and junior.

P. S.—I desire you to put the enclosed letter into a bag, at the Pennsylvania coffee-house, for the first ship that sails for Philadelphia, and, when I have an opportunity, I will satisfy you for your trouble.

Addressed "to Andrew Aspden, in Old street, near the Golden Anchor, in London."

Examined with original. T. G.

Note.—This letter bears the postmark. It is supposed to be in the handwriting of testator's father.

This and the succeeding letter were on one piece of paper.

J. B.

SIMONSTONE, *August 29th*, 1767.

LOVING COUSIN: I [am] very sorry to hear you so far out of health; should be glad to hear of your recovery. I must begg you'l forward the enclosed, and shall ever for you pray. My compliments to your wife and son, and should be glad to hear how you go on. I have not heard any more from your sister.

Cousin William Aspden gives his compliments you, joined with

his wife, and desires you'l be kind enough to present them to Bartholomew Hindle and family the first opportunity.

I am your loving aunt,

MARGERY BAILEY.

Addressed "to Andrew Aspden, next door but one to the Golden Anchor, in Old street, London.

Examined with original. T. G.

Note.—Postmarked "Preston."

PACKER
vs.
TROTTER, &c.

This is the paper exhibit or document referred to by James Neville in his examination as the paper marked Gg, and was shown to, and by him deposed unto, in his examination on the part of the *part of the* plaintiff, this fourteenth day of September, 1847.

JAMES NEVILLE.

NATHANIEL C. MILNE,
ALFRED KING,
Commissioners.

SIMONSTONE, *March* 6, 1765.

LOVING NEPHEY: I rec'd yours the 3 instent, and am glad your all well, so I am at pressent, and I am glad to heair that all turns out so well. I made bould to send you another lettor, if you will bee so cind as to forrad it by the first ship I shal take it very cind; but I recei'd 5 letters from my brother since hee left Ingland, so I have no moor to ad, but remain thy loving ant,

MARGREY BAILEY.

Robt. Sager goins with mee in love to you all.
I sent uncle's lettor by ship Coroline, James fund, Comman.
Superscribed as follows:

"To
Mr. Andrew Aspden,
In Old street,
Simonstone, March 6, 1765. Next door to Golden
Margery Bailie. Anchor, ivery turner,
London.

Endorsed on the left hand outer margin, "March 6th, 1765."
"Margery Bailey to Andrew Aspden."

PACKER
vs.
TROTTER, &c.

This is the paper exhibit or document referred by James Neville in

his examination as the paper marked Hh, and was shown to, and by him deposed unto, at the time of his examination on the part of the plaintiff, this fourteenth day of September, 1847.

JAMES NEVILLE.

NATHANIEL C. MILNE,
ALFRED KING,
Commissioners.

"PHILADELPHIA, *October 9th*, 1765.

DEAR COUSIN: I am sorrow to give you an account of my father's death, which happened some time ago by a laxative disorder, and has left me all his estate, except one house and about eight hundred pounds. I do intend in the spring, please good I live, to sail for London, and hope to have the pleasure of seeing you in perfect health there.

I remain, dear sir,
Your humble servant,
MATTHIAS ASPDEN.

P. S. My kind love to wife and son."
(Superscribed,)
For
Mr. Andrew Aspden,
In Old street,
London.

Philadelphia, Oct. 9th, 1767. His father's death left him all his estate but one house and £800. MATTHIAS ASPDEN.

PACKER
vs.
TROTTER, &c.

This is the paper exhibit or document referred to by James Neville in his examination as the paper marked Ii, and was to and by him deposed unto, at the time of his examination on the part of the plaintiff, this fourteenth day of September, 1847. JAMES NEVILLE.

NAT. C. MILNE,
ALFRED KING,
Commissioners.

PACKER
vs.
TROTTER, &c.

This is the paper exhibit or document referred to by Brown Collison in his examination as the paper marked 2, and was shown to, and by him deposed unto, at the time of his examination on the part of the plaintiff, this sixteenth day of September, 1847.

BROWN COLLISON.

NAT. C. MILNE,
ALFRED KING,
Commissioners.

"LIVERPOOL, *Nov. 5th*, 1766.

DEAR COUSIN: I take the pleasure of acquainting [you] of my taking a private lodging here, and intend spending the winter. Early in the spring I propose going [to] America. If you think your father would advance you something handsome to purchase a small cargo, I will do all in my power to establish you in business in Philadelphia, or if it would answer, where my aunt lived, in Haddonfield, if it was more as agreeable; I intend my mother to move out of there; a passage there from here is cheaper by ten guineas than from London. Aunt and all relations in the country is well; have not yet been over to see them, but propose in short time. I have lately had two gentlemen from Philadelphia, who intoxicated me more with pleasure than ever I was with wine. I have likewise rec'd a letter from there, which informs all is well. We have no news in Liverpool. I took a violent cold from over-heating myself at a private dance the other night, but begin to mend; the English climate does not rightly agree with me. I beg you will present my kind love to your father and mother, and am, sir, your humble servant, MATTHIAS ASPDEN."

On the second page of this letter the following is written, to wit: "March 5th, 1766.

"Matthias Aspden to Andrew Aspden."

Superscribed as follows, to wit:

To Mr. John Aspden—4
at
Andrew Aspden's,
Old street,
London.

L. Pool, Nov. 5th, 1766.

PACKER
vs.
TROTTER, &c.

This is the paper exhibit or document referred to by James Neville, in his examination, as the paper marked Kk, and was shown to, and by him deposed unto, at the time of his examination on the part of the plaintiff, this fourteenth day of September, 1847.

JAMES NEVILLE.

NAT. C. MILNE,
ALFRED KING,
Comm'rs.

PACKER
vs.
TROTTER, &c.

This is the paper exhibit or document referred to by Brown Collison,

on his examination, as the paper marked 3, and was shown to, and by him deposed unto, at the time of his examination on the part of the plaintiff, this sixteenth day of September, 1847.

BROWN COLLISON.

NAT. C. MILNE,
ALFRED KING,
Commissioners.

"LIVERPOOL, *December* 5, 1766.

DEAR COUSIN: It is not without some sense of my ingratitude for neglecting writing to you that I acquaint you now, with pleasure, of my intention to sail a New Year's day for Philadelphia, in the Phillis, Captain Robison. The pleasure I feel at so speedy departure words would be almost wanting to express, arising not from any I expect on the but *but* entirely from the plan of life I have laid down, which in every particular I have so consulted my reason as to have placed nothing impossible, improbable, or impracticable, but what with the blessing of God I may succeed in; as on it is the basis or foundation upon which I build my hopes. I am determined to use the utmost assiduity and perseverance in carrying on what I think so laudable a resolution; and if in this state of happiness I can meet with anything that will prove advantageous to my cousin Jacky, (if you have for him, or he an inclination to come,) I will not fail communicating, and use my utmost endeavours to promote him in anything in the mercantile way, what I propose entering in myself when I am well settled, and a proper time and opportunity offers. I can no more give you an idea of the pleasure I shall feel on my arrival, than my uneasyness at what I am to be exposed to before I come to it; and if pain and anxiety increases pleasure, I sure mine will be almost inexpressible; two months or more to be on that boisterous element, the sea; ofttimes the very sport of cruel winds and waves; nay, what is worse from the surrounding horrors, gloomy reflections which magnifies each terror and makes the thoughts of death from the right sight of those cloud-capt waves, incessantly rolling their mountainous bodies after, ten thousand times more tremendous. Oh, that this may prove a dream, and my expectations be so agreeably disappointed. Raised to this height from the narrow escape coming, how transported shall I be when I see kind indulgent heaven, bounteous as benign, favouring me with kind propitious gales that gently wafts me over each silver-headed wave to that dear place where liberty, O, liberty and happiness forever dwells. Liverpool, with all the hurry and bustle of the mercantile world, appear but a very insippid place; if I did not kill the hours with that which in old will be my only resource, when present enjoyment gone and only reflection left upon pleasures and improvement to make the defest. I shall, in a week times, go over to aunt and our other relations, to bid them a last farewell, the thoughts affords me some uneasiness, from a very tremendous appearance in that word farewell.

My kind love present to cousin Jenny and Jacky. I expect an an-

swer soon, and remains, your affectionate kinsman, and humble servant,

MATTHIAS ASPDEN.

P. S. I don't think that we shall sail for certain till the middle of January.

MATH. ASPDEN.

Superscribed as follows, to wit:

Liverpool,
December 5, 1766.
Going to America.
Matthias Aspden.

To Mr. Andrew Aspden,
in
Old street,
London.

PACKER
vs.
TROTTER.

This is the paper exhibit or document referred by Brown Collison, in his examination, as the paper marked 4, and was shown to, and by him deposed unto, at the time of his examination on the part of the plaintiff, this sixteenth day of September, 1847.

BROWN COLLISON.

NATHANIEL C. MILNE,
ALFRED KING,
Commissioners.

PACKER
vs.
TROTTER, &c.

This is the paper exhibit or document referred to by James Neville, in his examination, as the paper marked Ll, and was shown to him, and by him deposed unto, at the time of his examination on the part of the plaintiff, this fourteenth day of September, 1847.

JAMES NEVILLE.

NATHANIEL C. MILNE,
ALFRED KING,
Commissioners.

"BLACKBURNE, *February* 21*st*, 1769.

COUSIN: I received your letter, dated 29th October last, some time about the middle of December last, which I have purposed answering sooner, but have been lately disappointed of an opportunity of doing it by a vessel lately sailed from Liverpool. I am glad to find you have settled the account with Touchett & company; and, although it be with some loss, I doubt not but you'll make it easy to you. I am likewise very glad to find you are removed to your house in Water street, which I hope you'll enjoy with great satisfaction and content.

I have not the account Captain Harrison rendered your father before he died, nor do I know where it [is,] but it was in the house where my uncle died, and I suppose that, with the other accounts and books, were taken by Mr. Reeves and Mr. Leadin. I have heard my uncle say, that that account was settled in the day-book, and I find a sketch of the account by which, according to the day-book, the captain owed my uncle the sum of £60 10s. I have often heard my uncle say that he left all his title-deed in the house of Captain Harrison before he came to England, and that, after he returned to Philadelphia, he permitted the same till his death to remain there, and I suppose the same are now in the hands of Mr. Harrison, who probably possessed himself thereof upon the death of the captain. I have often heard my uncle say that the title-deeds of the estates in Chester county and Water street were all recorded, but that the title-deeds of the estate in Haddonfield were not recorded. When the affair of the house in Market street is settled, I desire you'll acquaint me in what manner it is settled. I have heard my uncle say that the deeds were recorded in the office of Mr. Charles Brogdon, where, or at his office, you'll find some intelligence as to the same, if you think proper to inquire there. If I can be of any further service to you, I beg you'll command me, as I shall esteem it a singular pleasure to do all that lies in me for you. I beg my best respects to you, and wish you health and welfare. All relations here send their compliments to you. I desire to hear from you as often as is convenient. I am, your affectionate cousin,

MARY ASPDEN."

"P. S. My brother son, Matthias, died some time."

Superscribed as follows, to wit:

"Mr. Matthias Aspden, jr.,
"Blackburne, "Philadelphia,
February 21, 1769. "Pensilvania.
"Mary Aspden,
Relative to property."

On the back of the letter is written as follows:

"February 21, 1769.
Mary Aspden to Mr. Aspden."

PACKER
vs.
TROTTER, &c.

This is the paper exhibit or document referred to by James Neville, in his examination as the paper marked Mm, and was shown to, and by him deposed unto, at the time of his examination on the part of the plaintiff, this fourteenth day [of] September, 1847.

JAMES NEVILLE.

NATH. C. MILNE,
ALFRED KING,
Commissioners.

"PHILADELPHIA, *October* 11, 1770.

DEAR COUSIN: I am sorry to put you to expense of a letter for any matter of consequence I have to write about; this serves to acquaint you that I have a large ship now going to Hispaniola, which expect in again per the first of March, when I design her for Liverpool, to be there about the first of June, to the address of Messrs. Rawlinson and Chorley, and if my cousin John has any mind to come to Philadelphia he shall be welcome to his passage, and all the assistance that lays in my power to establish him in a trade which I have in view, and which I think will answer very well, and enable him to live easy and genteel, provided he can be able to raise £200 or £300 st'ng. The trade would recommend is this, upon his arrival here, after staying a month or six weeks with me to see a little of the nature of business, would be to charter a vessel of a 1,000 or 1,200 barrels of flour, he to load one-half and the owner the other half, and consign it to him, a thing very customary with us, and to go to the West Indies islands and sell it. The commissions allowed for selling is £12 10s. per cent., and the amount of a vessel of that size or cargo would be £1,000 or £1,500, according which island she went to, and the money he would clear, if his own part of the cargo only paid his commission, would be £125 or £190, and this in three or four months with the best success. I have here recommended nothing but what I think extremely practicable, and the chief pleasure in it is, as we are the only remains of the old stock likely to have any connexion together, we might be nearer to each other, and more mutually serviceable. If my cousin John should like this country you might live with your family upon the interest of £1,000 sterling easy and genteel, in town or Haddonfield, where my aunt used to live, without doing of any business; and if my cousin John should not like America, or things should not turn out as well as would be wished, he might still return again to his old business with you, without being much the worse for the voyage; but until he had tried whether it would answer or not I would not have you to think of moving, or if you should come, of bringing over any relations from Lancashire. The interest of money in Pennsylvania is £6 per cent.; in the Jerseys £7, and as exchange is now, £100 sterling is worth £160 here, which at interest in the Jerseys would be £11 4s. currency for £100 sterling; and provision in this country is cheaper than in London much. If cousin should think of coming, I would have him write the first opportunity, and improve himself in the interim in writing, arithmetic, and seeing a little of England. There is a gentleman, one of my intimate acquaintances, Mr. White, come passenger with Captain Falconer, if you inquire of the captain at the Pennsylvania Coffee house he will tell you where he lodges, and from him you may know more fully respecting me.

I am, with my love to you all, your affectionate kinsman,

MATTHIAS ASPDEN."

Superscribed as follows, to wit:

To
"Mr. Andrew Aspden,
in
Old Street,
London."

Per favor of
Capt. Falconer.

And on the left hand corner, under the letters "Mr." it is thus written:

"Philadelphia, Oct. 11,
"1770. Maths. Aspden
"proposes for his cousin
"John to go over."

And on the 3d page of this letter is the following mem.

"Oct. 11, 1770.
"Matthias Aspden to Andrew Aspden."

PACKER
vs.
TROTTER, &c.

This is the paper exhibit or document referred to by James Neville in his examination as the paper marked Nn, and was shown to, and by him deposed unto, at the time of his examination on the part of the plaintiff, this fourteenth day of September, 1847.

JAMES NEVILLE.

NAT. C. MILNE,
ALFRED KING,
Commissioners.

PACKER
vs.
TROTTER, &c.

This is the paper exhibit or document referred to by Brown Collison, in his examination, as the paper marked 5, and was shown to, and by him deposed unto, at the time of his examination on the part of the plaintiff, this sixteenth day of September, 1847.

BROWN COLLISON.

NAT. C. MILNE,
ALFRED KING,
Commissioners.

June 9, 1771, Margery Bailey to Mr. Aspden.

"SIMONDSTONE, *June 9th*, 1771.

NEAR NEPHEW: Having an opportunity of sending this to London,

thought it a favorable one to write to you. I heard from cousin Andrew Aspden, of London, that you had a vessel designed for Liverpool this or the next month. I should always be glad to be informed when any of your craft comes there, or any other port in this kingdom, as I could then have an opportunity to send by your own vessel. Pay my best respects to your mother, sister Mary and family, and all old acquaintance. William Aspden cannot yet furnish himself in regard to the prices of goods you advised, for our trade goeth exceeding well and goods sells very dear. I wrote in my last that your cousin Mary Aspden had married a widower with three children, a Yorkshire man. Your relations in this part of the world is well. Bob Sager's family present their complts. to you, and Dr. has got a husband. Corn and grain sells very dear and all sort of provisions. I should be glad to know in your next what has been the behavior of John Harkin, as he is come home, and now gets his living by the sweat of his brow. We have a canal now cutting from Leeds in Yorkshire, to Liverpool, which will open a communication from the east seas to the west; it will go through Simonstone. William Aspden and wife prays their best respects to you and all relations in your country.

I am, with great regard, your affectionate aunt,

MARGERY BAILEY.

Superscribed as follows, to wit:

For Mr. Matthias Aspden, mercht.,
at Philadelphia,
America.

Simonstone, June 9, 1771.
Margery Bailey.

PACKER
vs.
TROTTER, &c.

This is the paper exhibit or document referred to by James Neville in his examination as the paper marked Oo, and was shown to, and by him deposed unto, at the time of his examination on the part of the plaintiff, this fourteenth day of September, 1847.

JAMES NEVILLE.

NATH. C. MILNE,
ALFRED KING,
Commissioners.

March 10, 1772, Margery Bailey to Janet Aspden.

"SIMONSTONE, 10*th March*, 1772.

DEAR COUSIN: This come to acquint you of welfare at prsent in hopes these will you and sone in the same I received a letor from your sister in law at Led's concerning her sone, she says she never heared nothing from you nor from him since his unckle died so I desire the favour you to let me know by the bear what is comed of him and how

he is with—so no more at present but my love and compliments to self and to your sone. From your dear cousin till death,

MARGERY BAYLIE.

Superscribed as follows:

To Mrs. Jenat Astdn near the
Golden Anchor, Old street, London.

Simonstone March 10, 1772,
Margery Bailey.

PACKER
vs.
TROTTER, &c.

This is the paper exhibit or document referred to by James Neville, in his examination, as the paper marked Pp, and was shown to, and by him deposed unto, at the time of his examination on the part of the plaintiff, this fourteenth day of September, 1847.

JAMES NEVILLE.

NATH. C. MILNE,
ALFRED KING, *Comm'rs.*

May 23, 1774. Matthias Aspden to Andrew Aspden.

"PHILADELPHIA, *May* 23, 1774.

DEAR COUSIN: This is forwarded to you per the ship Charming Nancy, George Corrie, master, via. Bristol, belonging to me; its long since I have had a line, or heard whether you be living or dead. Should you or cousin John have business to call you to Bristol, I should be glad you would call on board my ship, and the captain will treat you kindly; or should you incline to advance cousin John a few hundred pound sterling, he shall be welcome to his passage; and make no doubt but he might fall into some business here that he could carry on to advantage. Please to present my love to cousin Jenney and cousin John.

I shall be extremely glad to hear from you. My mother died in October last. Molly Harrison, eldest daughter, is married well to one Mr. White, a clergyman in this city.

I remain, with regard, yours, affectionately,

MATTHIAS ASPDEN.

Superscribed as follows:

To
Mr. Andrew Aspden,
in
Old street,
London.

Philadelphia, May 23, 1774.
Matthias Aspden; his mother's death; her daughter's marriage to the Rev. Mr. White.

PACKER
vs.
TROTTER, &c.

This is the paper exhibit or document referred to by Brown Collison, in his examination, as the paper marked 6, and was shown to, and by him deposed unto at the time of his examination on the part of the plaintiff, this sixteenth day of September, 1847.

NATHANIEL C. MILNE,
ALFRED KING,
Commissioners.

PACKER
vs.
TROTTER, &c.

This is the paper exhibit or document referred to by James Neville, in his examination, as the paper marked Qq, and was shown to, and by him deposed unto, at the time of his examination on the part of the plaintiff, this fourteenth day of September, 1847.

JAMES NEVILLE.

NATHANIEL C. MILNE,
ALFRED KING,
Commissioners.

May 5, 1775. Matthias Aspden to Andrew Aspden.

"PHILADELPHIA, *May* 5, 1775.

DEAR COUSIN: This will be handed by Captain Dunn, in my brig Ranger, who is going to your place. I have embraced the opportunity of acquainting you I am well, but in a very uneasy situation on account of the approaching miseries likely to happen in this country; the troops and inhabitants near Boston have had a battle. This province is all arming, expecting nothing but violent measures by the ministry. What will be the result, God only knows. The captain will inform you of particulars.

I shall be glad to hear from you—the pilot boat going off immediately prevents me from writing more.

I remain, affectionately, yours,
MATTHIAS ASPDEN.

Compliments to cousins Jennet and John.

Endorsed or superscribed as follows:

To Mr. Andrew Aspden,
In Old street, London.

Philada., May 5, 1775.
Matthias Aspden.
Troubles of the country.
Per Capt. Dunn.

PACKER
vs.
TROTTER, &c.

This is the paper exhibit or document referred to by James Neville, in his examination, as the paper marked Rr, and was shown to, and by him deposed unto, at the time of his examination on the part of the plaintiff, this fourteenth day of September, 1847.

JAMES NEVILLE.

NATH. C. MILNE,
ALFRED KING,
Commissioners.

PACKER
vs.
TROTTER, &c.

This is the paper exhibit or document referred to by Brown Collison, in his examination, as the paper marked 7, and was shown to, and by him deposed unto, at the time of his examination on the part of the plaintiff, this sixteenth day of September, 1847.

BROWN COLLISON.

NATH. C. MILNE,
ALFRED KING,
Commissioners.

May 14, 1777. Margery Bailey to Mr. Aspden.

"SIMONSTONE, *May 14th*, 1777.

NEPHEW ASPDEN :

Some time since, your cousing, Matthias Aspden, wrote from Bristol to your cousin, William Aspden, of Great Harwood, and informed him of his safe arrival in England; he wrote he was going from there to London, but wod be down in the country in three weeks or a month, which is now most of three months ago, and we have heared nothing more about him. I shod be glad to hear what's become of him, and shall be glad to see him here; and how your mother has her health, and you, your wife and ffamily. William Aspden, of Harwood, begs his compts. to you, your ffamily, and your mother. Accpt. my best wishes, with my complts. to relations and ffriends in London.

I am, your affectionate aunt,

MARGERY BAILEY.

Superscribed as follows, to wit :

Mr. John Aspden, Ivory turner,
near the Golden Anchor,
In Old street, London.

Simonstone, May 14, 1777.

Margery Bailey, inquiring after Matthias Aspden, when he would be down in the country.

PACKER
vs.
TROTTER, &c.

This is the paper exhibit or document referred to by James Neville, in his examination, as the paper marked Ss, and was shown to, and by him deposed unto, at the time of his examination on the part of the plaintiff, this fourteenth day of September, 1847.

JAMES NEVILLE.

NATH. C. MILNE,
ALFRED KING,
Commissioners.

August 18, 1777. Margery Bailey to Mr. Aspden.

"SIMONSTONE, *August 18th*, 1777.

DEAR NEPHEY: I tooke oppertunity to write to you, expecting that I should a had your company before now; but I heard of you by the letter that you send, which made mee something easeor; but I hope that your spirit and health is well, as I and all relations is in ealth at present, thanks bee to the all mighty God for hit. But I hope that you will send mee a letter, and let mee know when you intend to come to see mee, as you promised when we parted, and wher's you intend to sattle, for I would not have you to think of going to Filadelphia while thees troublesom times are settled, as I am old, and cannot come to you, but allways have you in my mind and thought.

N. B. Pray give my kind love to John Aspden and his wife, and mother, and family, and tell them that I am well, considering old age.

And when you write, let mee now weather you have aney thinge metarial from Philadelphia or now, and I would have you to rite as soon as opertunity serves. So I conclude with my love to you, wilst I remain, your aunt, MARGERY BAILEY.

N. B. Robert Seager and family remember, shear in love to you, and hope that you are well.

Superscribed as follows:

To Mr. Matthias Aspden,
to the care of John Aspden,
living in Old street,
nigh the Golden Anchor,
London.

Simonstone,
Margery Bailey.

PACKER
vs.
TROTTER, &c.

This is the paper exhibit or document referred to by James Neville in his examination, as the paper marked Tt, and was shown to, and

by him deposed unto, at the time of his examination on the part of the plaintiff, this 14th day of September, 1847. JAMES NEVILLE.

NATHANIEL C. MILNE,
ALFRED KING, *Commissioners*.

Nov. 19, 1777. Margery Bailey to John Aspden.

SIMONSTONE, *Nov.* 19, 1777.

DEAR COUSIN: I hope these will find you and your ffamily in good health, and also your mother; shod be glad you wod let me have a line from you, and let me know what's become of Matthias Aspden. Wm. Aspden, of Harwood, begs his compliments to all relations.

I am, your loving cousin,
MARGERY BAILEY.

Superscribed as follows:

Mr. John Aspden,
Ivory turner,
near the Golden Anchor,
Old street,
London.

Simonstone,
Nov. 19, 1777.
Margery Bailey.

PACKER
vs.
TROTTER, &c.

This is the paper exhibit or document referred to by James Neville, in his examination, as the paper marked Uu, and was shown to, and by him deposed unto, at the time of his examination on the part of the plaintiff, this fourteenth day of September, 1847.

JAMES NEVILLE.

NAT. C. MILNE,
ALFRED KING, *Commrs*.

Feb. 2, 1778. Margery Bailey to Aspden.

SIMONSTONE, *Feb.* 2, 1778.

DEAR NEPHEY: This comes with my cind love to you and all your family, hopeing that you're all in ealth and prosperity, as I am in ealth at prsant, thanks bee to God for hit. But I deseir to know whether your mother bee living or not.

N. B. I deseir you to give mee some account of Matthias Aspden, for I have had no account from him since hee was at York, for I hav sent two letters, and has had no answer. But I desire you would be so good as to enquire weather Matthias bee in London or no, and to enquire of him wheather he intends to come down and see his relations, for I have a desire to see him before I die.

This is all at present from your loving aunt,
MARGERY BAILEY.

N. B. Please to show Matthias this if he is in London.

Superscribed as follows:

To
Mr. John Aspden,
in Old street,
near the Golden Anchor,
Ivory turner,
London.

Simonstone, Feb. 2, 1778.
Margery Bailey.

PACKER
vs.
TROTTER, &c.

This is the paper exhibit or document referred to by James Neville in his examination, as the paper marked Vv, and was shown to, and by him deposed unto, at the time of his examination on the part of the plaintiff, this fourteenth day of September, 1847.

JAMES NEVILLE.

NAT. C. MILNE,
ALFRED KING,
Comm'rs.

March 29th, 1778. Margery Bailey to John Aspden.

SIMONSTONE, *March 29th* 1778.

LOVING JOHN ASPDEN: This is to acquent you that I have taken a seccond opertunity to rite to you. I would have you to send mee word when you see Matthias Aspdin, and what country he has taken his gourney to, and wheather you have heard aney thing about him since he was at Cumberland, for I have a great desire to heare of him, so I hope that you will bee so good as to send mee word the first opertunity the best you cann about him, and you will oblidge your aunt

MARGRY BAILEY.

N. B. These few lines that I have heard from Mr. Richard Aldred hav given me no satisfaction at all. I hope when I hear from you I shall have moor account.

I desire to be remembered to your mother.

Superscribed as follows:

To Mr. John Aspdin, in Old street,
nigh the Golden Anchor, ivory turner,
London.

Simonstone, March 29th,
1778, Margery Bailey.

PACKER
vs.
TROTTER, &c.

This is the paper exhibit or document referred to by James Neville

in his examination, as the paper marked Ww, and was shown to, and by him deposed unto, at the time of his examination on the part of the plaintiff, this fourteenth day of September, 1847.

JAMES NEVILLE.

NATH. C. MILNE,
ALFRED KING,
Commissioners.

"SIMONSTONE, *January* 23, 1779.

DR. NEUFEW: I have taken the opportunity once more to enquire how you and your family does; and I want earnestly to know from you if you heard anything from your cusine Matthias, as I heard nothing from him since last Ester, and then he was for going to Flanders. And be sure to give my respects to your mother, if leaving. I would not have you to fail to let me know as soon as possible if you know anything of your cusine. In this you will not fail, and you shall obleg your loving aunt, MARGERY BAILIEE.

Superscribed as follows:

Mr. John Aspden, ivory turner,
In Old street, near the Golden Anchor,
London.

January 23d, 1779,
Simonstone, Margery Bailey.

On the second page is the following:

January 23d, 1779, Margery Bailey
To John Aspden.

PACKER
vs.
TROTTER

This is the paper exhibit or document referred to by James Neville, on his examination, as the paper marked Xx, and was shown to, and by him deposed unto, at the time of his examination, on the part of the plaintiff, this fourteenth day of September, 1847.

JAMES NEVILLE.

NATH. C. MILNE,
ALFRED KING,
Commissioners

"BATH, *December 8th*, 1781.

DEAR COUSIN: Since my coming here, say abt. a fortnight agoe, I received a letter from my nephw, George Harrison, in Amsterdam, of whose arrival there I informed you before I left town, acquainting me from the time it will take him to learn the Dutch language, the line he finds he is to be employed in of copying letters, &c., and the business being all done through channel of brokers, that he does not think he shall acquire much mercantile knowledge likely to be useful to him

in America, where the mode of transacting business is so very different, or at least equivalent to the expense he must be at. My advice on this occasion was particularly required. But in so nice a case I was much at a loss, further than after stating several things respecting his situation, recommending to him his seriously turning the thing again in his mind before he come to any determination of altering the plan in which his friends thought it proper he should go abroad. The result I am inclined to think, upon the whole, will be that I shall see him [in] England very soon, on his way to America, via the West Indies. I have wrote him, should this be his determination, not to make any stay on his arrival in London, but come immediately down to me, where I would take care to see him properly introduced upon our return to town, with a little intimation how to conduct himself to the different inquisitive persons he will, of course, be acquainted with. You will probably receive a note from him on his arrival at the inn, as I have mentioned your name to him. Should be glad, therefore, if you receive one, that you would go to him, and put him in the way where to get a place in the coach, for this place, &c. And if he chooses to stay a day in town, to show him the Change, the mansion house, the palace, &c. Your attention shall not be forgot.

This being a cheaper place then London, and more easy as to finding agreeable society, I have given it the preference for a residence during two or three of gloomy months of the winter. Give my love to your mother and the little family, and believe me to be, with great esteem, yours, &c., MATTHIAS ASPDEN.

Direct to me at Mr. Bird's, Queen street, Bath.

Superscribed as follows:

To Mr. John Aspden,
in Old street, London.

Bath, 7th December, 1781. Matthias Aspden, relative to a nephew coming to England from Holland.

On the second page is the following:
December 8th, 1781, Matthias Aspden to John Aspden.

PACKER
vs.
TROTTER, &c.

This is the paper exhibit or document referred to by James Neville, in his examination, as the paper marked Yy, and was shown to, and by him deposed unto, at the time of his examination on the part of the plaintiff, this fourteenth day of September, 1847.

JAMES NEVILLE.

NATH. C. MILNE,
ALFRED KING,
Commissioners.

PACKER
vs.
TROTTER, &c.

This is the paper exhibit or document referred to by Brown Collison, in his examination, as the paper marked 9, and was shown to, and by him deposed unto, at the time of his examination on the part of the plaintiff, this sixteenth day of September, 1847.

BROWN COLLISON.

NATH. C. MILNE,
ALFRED KING,
Commissioners.

"SIMONSTONE, *November 30th*, 1783.

DEAR NEPHEW: I hoape this will find you and your fammely in good health, as I am at present, thanks be to God for it. I desire you will be so kind *as to* as to let me knowe wheare Methias is; I have rit 2 different tiems since I recd. his of the 26th of March. I would have you to let Methias knowe that I desire the faivour of a line from him as soon as posable, for I long to knowe how affairs go with him in America. I desire you will be so kind as to give me a few lines as soon as posable you can, and in so doing you oblige your loving ant,

MARGERY BAILEY.

Superscribed as follows:

To Mr. John Aspden, in Old
street, near the Golden Anchor,
Ivory turner, London.

Simonstone, November 30,
1783, Margery Bailey.

PACKER
vs.
TROTTER, &c.

This is the paper exhibit or document referred to by James Neville, in his examination, as the paper marked Zz; and was shown to, and by him deposed unto, at the time of his examination on the part of the plaintiff, this fourteenth day of September, 1847.

JAMES NEVILLE.

NATH. C. MILNE,
ALFRED KING,
Commissioners.

January 15, 1784. William Aspden to John Aspden.

"GREAT HARWOOD, *January 15th*, 1784.

COUSIN: I am solicited by my aunt Bailey to write to you, as she has sent two letters some time ago, and directed to cousin Matthias Aspden, the other to yourself, but as yet have had no answer. She earnestly begs you will write to me, and let me know, if you can, what's become of Matthias since the conclusions of the peace; as she

grows old and infirm, wod. gladly hear from him before her death. She also begs her compts. to you and your ffamily.

As I am riting this I hope it will not be taken amiss to let you know I have a son e're long coming to London, who has served apprenticeship to a surgeon and appothecary. Coul you hear him of a shop in that branch of business, who had occasion for one, I shall take it as an infinite favor, and as in duty bound shod. Ever my compts. to your ffamily, wishing you a happy new year.

WILLIAM ASPDEN.

P. S.—I shall be obliged to you if you can give me an acct. where Bartholomew Hindle, widow, or her son lives.

(Here, written in a different handwriting from the foregoing, appears the following, to wit:)

"Mrs. Hindle, No. 3, Tufton street,
Westminster.

This letter is superscribed as follows:

Mr. John Aspden, ivory turner,
near the Golden Anchor, in
Old street, London.

On the margin of the second page the following is written:

Matthias Aspden, No. 9, Spring Gardens,
Charing Cross, Salapian Coffee house,
February 10th, 1784.

PACKER
vs.
TROTTER, &c.

This is the paper exhibit or document referred to by James Neville, in his examination, as the paper marked aaa, and was shown to, and by him deposed unto, at the time of his examination on the part of the plaintiff, this fourteenth day of September, 1847.

JAMES NEVILLE.

NATH. C. MILNE,
ALFRED KING,
Commissioners.

May 5, 1793. Matthias Aspden to John Aspden.

"MAY 5, 1793.

COUSIN: The bearer is Titus Corless, son of John and Elizabeth Corless—the latter cousin to your late father. He came up last night from Lancashire, either to see if he could settle himself in London, if not, if there was encouragement to go to America; and as you have a house, and may have a bed to spare, I should be glad you would let

him have one while he stays, and he will come and dine with me while in town, or as often as convenient.

Sunday, Orange st., No. 5, Red Lyon square.

M. A.

Superscribed as follows:

Mr. John Aspden, Old street.

On the last or fourth page of this letter, and over the superscription, is written in different hands the following, to wit:

Mr. Titus Corless set off from London for Gravesend, with Mr. Heeles, Thursday, June 13, 1793, to proceed by the ship Amsterdam, packet for New York, in America, Captain Weeks.

Monday, May 20, 1799, died G. Franklyn. esq., of Aspden hall, by Buntingford, Hertfordshire.

Wood street, Cheapside, and then unto Chiswell row, at the end of which is Old street, and not far from the end of this street is John Aspden's.

A hackney couch, No. 334, fare 18*d.*, from the Swan with two knecks, Lad lane.

PACKER
vs.
TROTTER.

This is the paper exhibit or document referred to by James Neville, in his examination, as the paper marked bbb, and was shown to, and by him deposed unto, at the time of his examination on the part of the plaintiff, this fifteenth day of September, 1847.

JAMES NEVILLE.

NAT. MILNE,
ALFRED KING,
Commissioners.

PACKER
vs.
TROTTER, &c.

This is the paper exhibit or document referred to by Brown Collison, in his examination, as the paper marked 8, and was shown to, and by him deposed unto, at the time of his examination on the part of the plaintiff, this sixteenth day of September, 1847.

BROWN COLLISON.

NATH. C. MILNE,
ALFRED KING,
Commissioners.

June 6, 1785. Matthias Aspden to Mr. Aspden.

FALMOUTH, *June* 6, 1785.

DR. COUSIN: I just take up my pen to acquaint you that I embark this day in the packet for New York, an undertaking very far from

pleasing to me from the circumstances under which I am going. Though my residence in England on many accounts has not been very agreeable to me during the time I have been here, nevertheless think that things in America will occasion me to return; and if I do, hope that time will make me find change for the better.

I enclosed Aunt Bailey a note of £10 about a month before, which desired she would acquaint me with the receipt of; as yet, no letter has come to hand, perhaps the same has miscarried, or she has not rec'd mine. Would be glad you would write and inquire, and let my know by a letter directed to me in Philadelphia. Wishing you and your two daughters health and prosperity.

I am, with esteem, yours, &c.

MATTHIAS ASPDEN.

Superscribed as follows:

No. 105. Mr. John Aspden,
Old street, London.

Falmouth, June 6, 1835, sent £10 to an aunt not acknowledged.

On the third page of this letter is written, as follows:

April 22d, 1785, Mr. Matthias Aspden's last visit to John Aspden, of Old street, before his going to North America.

October 10, 1785, Mr. Matthias Aspden's first to John Aspden, of Old street, after his returning from America.

September 5, 1786, Mr. Matthias Aspden's second, do.

PACKER
vs.
TROTTER.

This the paper exhibit or document referred to by James Neville, in his examination, as the paper marked c c c, and was shown to, and by him deposed unto, at the time of his examination on the part of the plaintiff, this fourteen day of September, 1847.

JAMES NEVILLE.

NATH. C. MILNE,
ALFRED KING,
Commissioners.

PACKER
vs.
TROTTER.

This is the paper exhibit or document referred to by Brown Collison, in his examination, as the paper marked 1; and was shown to, and by him deposed unto, at the time of his examination on the part of the plaintiff, this sixteenth day of September, 1847.

BROWN COLLISON.

NATH. C. MILNE,
ALFRED KING,
Commissioners.

SIR: A remembrance of you from my early youth, and of the attentions then shown me, (notwithstanding you are merry Andrew's son, the turner, in Old street,) will not permit me to slight an old friend and relation, and forego the present opportunity of acquainting you of my arrival here, on the 23d September, after a tedious and disagreeable passage of nine weeks and five days from Gravesend. The passengers in the cabin, besides myself properly, were a master Capper, a young lad about 17, and a Mr. or master Ricards, a jabbering Jew boy, and two very impertinent rascals. There was likewise a Mr. Johnson, a journeyman coachmaker, or painter, and his wife or woman, taken on board in the Downs; the first I knew of their going as steerage passengers, but showed down into the cabin, where she staid the passage.

The woman made her appearance in a handsome blue habit; was likely, bold, and masculine; perhaps she was to serve the — and some other ends; however, I suspected a trick, and that I ran more risks on the passage than the danger of the sea alone; if so, the plot was wicked, villainous, and cruel. I have only seen two of the parties once since my arrival. Believe they have either gone back or decamped; could learn nothing here; am doubtful the captain was not entirely out of the secret; there was something like a violation of safe conduct in it. Perhaps by inquiring at Leader Well, and without making yourself known, you may find something out.

I had the satisfaction to find my relations and friends in general here well. The country is in a rising and prosperous way; and this city much improved since the peace, by the addition of many handsome new buildings; I may venture to say, in houses of workmanship and materials, (brick and wood,) unexcelled.

Yet am rather doubtful my return now is *to* late timed to stay; from changes, and alterations circumstances make in parties, on looking over the directory I found I scarcely knew above three or four in a hundred. In some families, I find girls I left in the cradle grown up and married; again, in others, I find children I left just breeched, and lads from ten to fifteen, grown up and settled; and, among the latter, some of the most rising principal merchants. In short, from the revolution, and an absence of fifteen years, my native land appears what I expected, almost an unknown country to me.

Being a lodger, and from the ups, &c., I feel a sensible difference here between my present and former situation.

With compliments to your daughter and son-in law, and little fourth cousins, if there be any, I am, with good wishes, your cousin and friend,

MATTHIAS ASPDEN.

PACKER
vs.
TROTTER, &c.

This is the paper exhibit or document referred to by James Neville, in his examination, as the paper marked d d d, and was shown to,

and by him deposed unto, at the time of his examination on the part of the plaintiff, this fourteenth day of September, 1847.

JAMES NEVILLE.

NATH. C. MILNE,
ALFRED KING,
Commissioners.

PACKER
vs.
TROTTER, &c.

This is the paper exhibit or document referred to by Brown Collison, in his examination, as the paper marked 10, and was shown to, and by him deposed unto, at the time of his examination on the part of the plaintiff, this sixteenth day of September, 1847.

BROWN COLLISON.

NATH. C. MILNE,
ALFRED KING,
Commissioners.

Fragment of a letter from Andrew Aspden.

——— little longer, but first I must beg your cind assistenes, if you would please to help me with a little money to pay my boourd wages one quarter of a year with; by that time Ime in good hopes to be able to do a little business with my son, and hopes you would do your best to get me into business, and then I hope to requite you if please God. I am at present with my uncle Nathaniel, and am obliged both to follow my trade and learning more than ordinary, to get something to assist me with; and hopes youle let me have your answer as speedily as possible, and that will gratefully oblige your dutiful and obedient son.

ANDREW ASPDEN.

My sister returns you her kind thanks for your token, and hopes youle accept her duty. My uncle and all relations desires to be remembered unto you. Direct for me at my uncle Nathaniel's, in Harwood Magna, near Blackburn, Lancashire, by Preston.

This letter is of my own doing; pray pardon the imperfection.

Harwood Magna, June 25th, 1729.

PACKER
vs.
TROTTER.

This is the paper exhibit or document referred to by James Neville, in his examination, as the paper marked E E E, and was shown to, and by him deposed unto, at the time of his examination on the part of the plaintiff, this fourteenth day of September, 1847.

JAMES NEVILLE.

NATH. C. MILNE,
ALFRED KING,
Commissioners.

Amendment of record.

Afterwards, to wit, on the thirteenth day of November, A. D. 1847, on motion of T. I. Wharton, esquire, the record is amended by inserting the name of William B. Reed, esquire, for the name of T. I. Wharton, in the entry of November 8, 1843, so as to read as follows: "Mr. William B. Reed appears for the parties in the cause represented by Mr. James S. Smith."

Petition of John A. Brown, &c.

Afterwards, to wit, on the second day of March, A. D. 1848, the petition of John A. Brown, administrator of John Aspden, of London, deceased, is presented by his said solicitors, William B. Reed and Henry J. Williams, esquires, praying to be made a party to the bill of revivor; which petition, being read and filed, is in the words and of the tenor following, to wit:

To the honorable the judges of the circuit court of the United States, for the eastern district of Pennsylvania.

The petition of John A. Brown, administrator of John Aspden, deceased, known as John Aspden, of Old street, London, showeth: That on the 15th June, 1835, he presented to your honorable court his petition, setting forth that the said John Aspden, of Old street, London, was entited, as heir-at-law and residuary devisee, to the residue of the estate of Matthias Aspden, deceased, that Henry Nixon was then the executor of the will of the said Matthias, and as such appeared and answered to a certain bill and amended bill pending in your honorable court, filed by a certain Samuel Packer, at the April session, 1828, No. 1, of this court; that your petitioner then and there filed a petition, praying to be made party to the said bill against the said Nixon, and thereupon, by decree of your honors, was made such party.

He further shows that, since said decree and order of your honors, the said Nixon hath died, and that letters of administration de bonis non cum testamento annexo of Matthias Aspden, have since been granted to a certain Joseph Trotter, who hath taken on himself the burthen of the execution thereof; and that the said Samuel Packer hath exhibited his bill of revivor to revive the said suit against the said Trotter, as such administrator, to which bill of revivor the said Trotter has answered; your petitioner therefore prays he may be admitted as a party to the said revived suit for the purposes set forth in his original petition.

And he will ever pray, &c.

Petition of Eliza Thomson and others.

Afterwards, to wit, on the same day, the petition of the Eliza Thomson and others, praying to be made parties to the bill of revivor, is presented by their solicitor, Josiah Randall, esquire, which petition, being read and filed, is in the words and of the tenor following, to wit:

To the honorable the judges of the circuit court of the United States, in and for the district of Pennsylvania.

The petition of Eliza Thomson, Rebecca Vanscriver, Elizabeth Hammitt, Charles Borton, Ruth P. Marll, Bartholomew Carter, Obadiah Borton, Climer Mason, Susan Hampton, Rachael E. Hammitt, Hannah Packer, Samuel B. Hunt, Ralph Hunt, John R. Richards, John Boque, Elizabeth Newton, Jesse P. Barton, Sarah Borton, Lydia Blackwood, Elinor P. Leconey, Rachel E. Day, Elizabeth B. Wady, Martha Stewart, A. M. Nichols, Samuel Borton, Charles C. Edwards, Hannah P. Edwards, Edward Duffee, Asa Vanscriver, Charles B. Packer, Bracilla Carter, Samuel Warric, Mary Warric, Samuel P. Cox, Rhoda Powell, Richard Packer, Jeremiah Carter, Hugh C. Cox, Bersheba Thompson, John A. Packer, Jacob Wolohon, Sarah Carter, Lewis Waterman, Samuel Waterman, J. M. Schenck, James E. Packer, Joseph Marsh, Ruth P. Marsh, Dr. E. D. Marsh, Susanna P. Marsh, and Elizabeth Packer, citizens of the State of Pennsylvania and New Jersey, respectfully showeth: That your petitioners are, as they firmly believe, entitled to have distribution made to them, as the parties contemplated in and by the will of Matthias Aspden, deceased, late of the city of Philadelphia, which will is set forth in certain proceedings instituted in this honorable court, consisting of a bill filed by Samuel Packer against Henry Nixon, executor of Matthias Aspden, deceased, and the answer of the said Henry Nixon, same being filed as No. 1, to April session, 1828.

Your petitioners claim through the brothers and sisters of the testator's mother, being their great grandchildren.

Your petitioners aver that the said Matthias Aspden, the testator, was born in the State of Pennsylvania, and that he was domiciled in the said State of Pennsylvania at the time of making his said will, and also at the time of his death, and also during the whole period which intervened between the making of the said will and his death.

Your petitioners pray that they may be admitted as parties to the said suit for the purpose of claiming the fund in the hands of the said executor; and that your honors will be pleased to direct such inquiries to be made as to their claims as justice may require; and, finally, that the said fund may be decreed to your petitioners, as may in justice and equity appertain.

And your petitioners will ever pray, &c.

Petition of Sophia Harrison, executrix, &c.

Afterwards, to wit, on the fourth day of March, in the year afore said, the petition of Sophia Harrison, praying to be made a party to the bill of revivor, is presented by her said solicitors, Benjamin Tilghman and H. D. Gilpin, esquires; which petition being, read and filed, is in the words and of the tenor following, to wit:

Amendment of record.

Afterwards, to wit, on the thirteenth day of November, A. D. 1847, on motion of T. I. Wharton, esquire, the record is amended by inserting the name of William B. Reed, esquire, for the name of T. I. Wharton, in the entry of November 8, 1843, so as to read as follows: "Mr. William B. Reed appears for the parties in the cause represented by Mr. James S. Smith."

Petition of John A. Brown, &c.

Afterwards, to wit, on the second day of March, A. D. 1848, the petition of John A. Brown, administrator of John Aspden, of London, deceased, is presented by his said solicitors, William B. Reed and Henry J. Williams, esquires, praying to be made a party to the bill of revivor; which petition, being read and filed, is in the words and of the tenor following, to wit:

To the honorable the judges of the circuit court of the United States, for the eastern district of Pennsylvania.

The petition of John A. Brown, administrator of John Aspden, deceased, known as John Aspden, of Old street, London, showeth: That on the 15th June, 1835, he presented to your honorable court his petition, setting forth that the said John Aspden, of Old street, London, was entited, as heir-at-law and residuary devisee, to the residue of the estate of Matthias Aspden, deceased, that Henry Nixon was then the executor of the will of the said Matthias, and as such appeared and answered to a certain bill and amended bill pending in your honorable court, filed by a certain Samuel Packer, at the April session, 1828, No. 1, of this court; that your petitioner then and there filed a petition, praying to be made party to the said bill against the said Nixon, and thereupon, by decree of your honors, was made such party.

He further shows that, since said decree and order of your honors, the said Nixon hath died, and that letters of administration de bonis non cum testamento annexo of Matthias Aspden, have since been granted to a certain Joseph Trotter, who hath taken on himself the burthen of the execution thereof; and that the said Samuel Packer hath exhibited his bill of revivor to revive the said suit against the said Trotter, as such administrator, to which bill of revivor the said Trotter has answered; your petitioner therefore prays he may be admitted as a party to the said revived suit for the purposes set forth in his original petition.

And he will ever pray, &c.

Petition of Eliza Thomson and others.

Afterwards, to wit, on the same day, the petition of the Eliza Thomson and others, praying to be made parties to the bill of revivor, is presented by their solicitor, Josiah Randall, esquire, which petition, being read and filed, is in the words and of the tenor following, to wit:

To the honorable the judges of the circuit court of the United States, in and for the district of Pennsylvania.

The petition of Eliza Thomson, Rebecca Vanscriver, Elizabeth Hammitt, Charles Borton, Ruth P. Marll, Bartholomew Carter, Obadiah Borton, Climer Mason, Susan Hampton, Rachael E. Hammitt, Hannah Packer, Samuel B. Hunt, Ralph Hunt, John R. Richards, John Boque, Elizabeth Newton, Jesse P. Barton, Sarah Borton, Lydia Blackwood, Elinor P. Leconey, Rachel E. Day, Elizabeth B. Wady, Martha Stewart, A. M. Nichols, Samuel Borton, Charles C. Edwards, Hannah P. Edwards, Edward Duffee, Asa Vanscriver, Charles B. Packer, Bracilla Carter, Samuel Warric, Mary Warric, Samuel P. Cox, Rhoda Powell, Richard Packer, Jeremiah Carter, Hugh C. Cox, Bersheba Thompson, John A. Packer, Jacob Wolohon, Sarah Carter, Lewis Waterman, Samuel Waterman, J. M. Schenck, James E. Packer, Joseph Marsh, Ruth P. Marsh, Dr. E. D. Marsh, Susanna P. Marsh, and Elizabeth Packer, citizens of the State of Pennsylvania and New Jersey, respectfully showeth: That your petitioners are, as they firmly believe, entitled to have distribution made to them, as the parties contemplated in and by the will of Matthias Aspden, deceased, late of the city of Philadelphia, which will is set forth in certain proceedings instituted in this honorable court, consisting of a bill filed by Samuel Packer against Henry Nixon, executor of Matthias Aspden, deceased, and the answer of the said Henry Nixon, same being filed as No. 1, to April session, 1828.

Your petitioners claim through the brothers and sisters of the testator's mother, being their great grandchildren.

Your petitioners aver that the said Matthias Aspden, the testator, was born in the State of Pennsylvania, and that he was domiciled in the said State of Pennsylvania at the time of making his said will, and also at the time of his death, and also during the whole period which intervened between the making of the said will and his death.

Your petitioners pray that they may be admitted as parties to the said suit for the purpose of claiming the fund in the hands of the said executor; and that your honors will be pleased to direct such inquiries to be made as to their claims as justice may require; and, finally, that the said fund may be decreed to your petitioners, as may in justice and equity appertain.

And your petitioners will ever pray, &c.

Petition of Sophia Harrison, executrix, &c.

Afterwards, to wit, on the fourth day of March, in the year afore said, the petition of Sophia Harrison, praying to be made a party to the bill of revivor, is presented by her said solicitors, Benjamin Tilghman and H. D. Gilpin, esquires; which petition being, read and filed, is in the words and of the tenor following, to wit:

To the honorable the judges of the circuit court of the United States, for the eastern district of Pennsylvania, in the third district, sitting in equity.

The petition of Sophia Harrison, of the city of Philadelphia, and a citizen of the State of Pennsylvania, sole executrix of the last will and testament of George Harrison, deceased, respectfully represents:

That the said George Harrison, who by his petition and amended petition heretofore filed in this suit, claimed to be entitled to have distribution made to him of the fund admitted to be in the hands of the executor of the last will and testament of Matthias Aspden, deceased, or part thereof, and was duly admitted as a party to this suit, did, on or about the fifth day of July, A. D. 1845, depart this life, having first made his last will and testament, bearing date the 25th of April, A. D. 1845, wherein he constituted and appointed his wife, Sophia Harrison, the present petitioner, the sole executrix thereof.

That on the 14th day of July, A. D. 1845, the said will was duly admitted to probate by the register of wills in and for the city and county of Philadelphia, and letters testamentary were, on the same day, duly granted and issued by the said register to your petitioner as sole executrix of the last will and testament of the said George Harrison, deceased, which said letters testamentary still remain in full force and unrevoked.

That, on or about the 18th day of August, A. D. 1840, Henry Nixon, the original defendant in this suit, who appeared herein as executor of the last will and testament of the said Matthias Aspden, departed this life, and thereupon letters of administration, de bonis non cum testamento annexo, were, on the 12th day of May, A. D. 1841, duly granted by the said register to Joseph Trotter, of the said city of Philadelphia, which letters of administration still remain in full force and unrevoked.

That on the 10th day of September, A. D. 1841, Samuel Packer, the original complainant in this suit, exhibited in this court his bill to revive the same against the said Joseph Trotter, administrator as aforesaid.

Wherefore your petitioner prays your honors to be admitted on the record as a party to the said revived suit as executrix as aforesaid of the last will and testament of the said George Harrison, for the purpose set forth in the original and amended petitions of the said George Harrison.

Petition of Michael Reinhart and others.

Afterwards, to wit, on the fourteenth day of March, in the year aforesaid, the petitions of Michael Reinhart and others, of Sarah R. Kirkbride and others, and of Edward Hartley and Thomas Adams, praying to be made parties to the bill of revivor, are presented by their respective solicitors; which petitions, being read and filed, are in the words and of the tenor following, to wit:

To the honorable the judges of the circuit court of the United States, in and for the district of Pennsylvania.

The petition of Michael Reinhart and Ann, his wife; John A. Packer; Anna M. Nichols; James E. Packer; Maria B. Wilks; Hannah S. Packer, widow of Edward E. Packer; Ruth D. McHaur; Rhoda Brown Bennett; Susanna West; James W. Packer; Sarah Vickers; Rachel E. Hammitt; Elizabeth Newton, widow of Joseph Newton; Amy Shinn, wife of Thomas Shinn; Hepzaba E. Hammitt; Sarah Baxter; Priscilla Brown, wife of Peleg Brown; Samuel Borton; Jacob Wolohon; Jacob Powell; Samuel E. Hillman; Meriam Slone, widow of Samuel Slone; Jane Dyer; E. H. Hammitt; Elizabeth Hammitt; Pamilia A. Hornor; Emma C. Keene; Leah Hillman; C. K. Hammitt; M. L. Hammitt; John R. Richards; Daniel Hammitt; Lydia Blackwood; William S. Hammitt; John R. Pedrick; Elizabeth Pedrick; Hanna Pedrick; Sarah A. Pedrick; Samuel Pedrick; Mary Pedrick; Keziah Pedrick; Joseph P. Pedrick; Cynthia A. Pedrick; Lavinia Pedrick; and Amanda Pedrick, respectfully showeth: That your petitioners claim that they are entitled to have distribution made to them as the parties contemplated in and by the will of Matthias Aspden, deceased, late of the city of Philadelphia; which will is set forth in certain proceedings instituted in this honorable court, consisting of a bill filed by Samuel Packer against Henry Nixon, executor of Matthias Aspden, deceased, and the answer of the said Henry Nixon; the same being filed as No. 1, to April sessions, 1828.

Your petitioner, Ann Rhinehart is the daughter of Elias Hammitt, who was the son of Rhoda Packer, intermarried with George Hammitt, and who was the sister of Rebecca Packer, who was the mother of Matthias Aspden, the testator; John A. Packer, Anna M. Nichols, James E. Packer, Maria B. Wilks, are children of Edward E. Packer, who was a son of John Packer, who was a son of Samuel Jones Packer, brother of Rebecca Packer, the mother of Matthias Aspden, the testator; Hannah S. Packer is the widow of the said Edward E. Packer; Ruth D. McHaur, Rhoda Brown Bennett, Susannah West, are the children of Rhoda, wife of James Reynolds, which said Rhoda was the daughter of Ruth Packer, married to James Duffield, which said Ruth was the daughter of Samuel Jones Packer, who was the brother of Rebecca, the mother of Matthias Aspden, the testator; James W. Packer is the son of James Packer, who was the son of John Packer, who was the son of Samuel Jones Packer, brother of Rebecca, the mother of Matthias Aspden, the testator; Sarah Vickers is the daughter of Keziah Hammitt, intermarried with Jesse Vickers, which said Keziah was the daughter of George Hammitt, who was the son of the said Rhoda, inter married with George Hammitt, which said Rhoda was the sister of Re becca, the mother of the said Matthias Aspden; Rachel E. Hammitt; ; Elizabeth Newton, widow of Joseph Newton, is the daughter of John Hammitt, who was the son of the said Rhoda, the sister of Rebecca, the mother of Matthias Aspden, the testator; Amy Shinn, wife of Thomas Shinn, is also a daughter of the last named John Hammitt; Hepzebah Hammitt is also a daughter of the

last named John Hammitt; Sarah, wife of Stacy Baxter, is also a daughter of the last named John Hammitt; Priscilla, wife of Peleg Brown, is also a daughter of the last named John Hammitt; Samuel Borton is a son of Rhoda Packer, intermarried with Samuel Borton, which said Rhoda was the daughter of Samuel Jones Packer, the brother of Rebecca, the mother of the said Matthias Aspden; Jacob Wolohon, son of Sarah Hammitt, intermarried with John Wolohon, which Sarah was the daughter of Rhoda, the sister of Rebecca, the mother of Matthias Aspden, the testator; Jacob Powell, son of Rhoda, widow of Aaron Powell, who was the daughter of Sarah Wolohon, the daughter of Rhoda, the sister of Rebecca, the mother of the testator; Samuel E. Hillman, ; Meriam Slone, widow of Samuel Slone, the daughter of Rhoda Powell, the daughter of Sarah Wolohon, the daughter of Rhoda, the sister of Rebecca, the mother of Matthias Aspden, the testator; Jane Dyer, ; E. H. Hammitt, Elizabeth Hammitt, Pamilia A. Horner, Emma C. Keene, Leah Hillman, C. K. Hammitt, and M. L. Hammitt, daughters of John Hammitt, son of Rhoda, the sister of Rebecca, the mother of Matthias Aspden, the testator; John R. Richards, son of Rachel Hammitt, intermarried with John Richards, daughter of Thomas Hammitt, son of Rhoda, the sister of Rebecca, the mother of Matthias Aspden, the testator; Daniel Hammitt, son of George Hammitt, son of Rhoda, the sister of Rebecca, the mother of Matthias Aspden, the testator; Lydia Blackwood, widow of Samuel Blackwood, daughter of Joseph Hammitt, son of Rhoda, sister of Rebecca, mother of Matthias Aspden, the testator; William S. Hammitt, son of George Hammitt, son of Rhoda, the sister of Rebecca, the mother of Matthias Aspden, the testator; John R. Pedrick, Elizabeth Pedrick, Hannah Pedrick, Sarah A. Pedrick, Samuel Pedrick, Mary Pedrick, Keziah Pedrick, Joseph P. Pedrick, Cynthia A. Pedrick, Lavinia Pedrick, and Amanda Pedrick, children of Isaac Pedrick, who was a son of Isaac Pedrick and Elizabeth, his wife, formerly Elizabeth Paxson.

Your petitioners aver that the said Matthias Aspden, the testator, was born in the State of Pennsylvania, and that he was domiciled in the said State of Pennsylvania at the time of making his will, and also at the time of his death, and also during the whole period which intervened between the making of the said will and his death.

Your petitioners pray that they may be admitted as parties to the said suit, and to the revival thereof, against Joseph Trotter, administrator de bonis non with the will annexed, of the said Matthias Aspden, deceased, in the room and stead of Henry Nixon, deceased, for the purpose of claiming the fund in the hands of said administrator; and that your honor will be pleased to direct such inquiries to be made as to their claim as justice may require; and, finally, that such portions of the said fund may be decreed to them, the said petitioners, as may in justice and equity appertain.

BLYTHE & HARRIS,
Solicitors for petitioners

The annexed paper contains a list of petitioners, with a statement of their relationship to testator, with a reference to them and their ancestors, as set forth on a printed list of the heirs and kindred of the whole and half-blood of Matthias Aspden, the testator, and in the master's report, filed among the records of above suit.

BLYTHE & HARRIS,
Solicitors for petitioners.

See page 5 of printed pedigree. Michael Rhinehart for Ann, his wife. Ann Rhinehart was daughter of Elias Hammitt. No. 77.

Page 4. John A. Packer, Anna M. Nichols, James E. Packer, Maria B. Wilks, children of Edward E. Packer, who is named on page 4, No. 24.

Hannah S. Packer, widow of Edward E. Packer, above referred to.

x. Page 4. Ruth D. McHam, Rhoda Brown Bennett, Susanna West, children of Rhoda Reynolds, and grandchildren of James Duffield, No. 7.

Page 4. James W. Packer, son of James Packer, No. 25.

Page 5. Sarah Vickers, and Jesse Vickers, daughter of Keziah Vickers; she is named on printed pedigree. See page 5, No. 61, 3d column.

x. Rachel E. Hammitt, not known.

Page 4. Elizabeth Newton, widow of Joseph Newton, and daughter of John Hammitt. See No. 40.

Page 4. Amy Shinn, wife of Thomas Shinn, and daughter of John Hammitt. No. 45.

Page 4 of printed pedigree. Hepzaba E. Hammitt, daughter of John Hammitt. See No. 44.

Page 4. Sarah Baxter, daughter of John Hammitt. See No. 47.

Page 4. Priscella Brown, wife of Peleg Brown, and daughter of John Hammitt. See No. 46.

Page 4. Samuel Borton, son of Rhoda Packer, married to Samuel Borton. See No. 28.

Page 5. Jacob Wolohon, son of Sarah and John Wolohon. See No. 67, 2d column.

Page 5. Jacob Powell, son of Rhoda Powell. See No. 68.

x. Samuel E. Hillman; (pedigree not known.)

Page 5. Meriam Slone, widow of Sam'l Slone. See No. 70; daughter of Rhoda Powell.

x. Jane Dyer.

Page 5. E. H. Hammitt, Elizabeth Hammitt, Pamilia A. Horner, Emma C. Keen, Leah Hillman, C. K. Hammitt, M. L. Hammitt, daughters of John Hammitt. See No. 52.

Page 4, of John R. Richards's printed pedigree; son of Rachel and John Richards. See No. 35.

Page 5. Daniel Hammitt, son of George Hammitt. No. 63.

Page 5. Lydia Blackwood, widow of Sam'l Blackwood. No. 51.

Page 5. William S. Hammitt, son of George Hammitt. See 1st column.

Page 6. John R. Pedrick, Elizabeth, Hannah, Sarah A., Samuel, Mary, Heziah, Joseph P., Cynthia A., Lavinia, and Amanda Pedrick, children of Isaac Pedrick, who was a son of Isaac Pedrick and Elizabeth, his wife, formerly Elizabeth Paxson. See No. 125.

BLYTHE & HARRIS,
Sol. for petitioners.

To the honorable Robert C. Grier, and the honorable John K. Kane, now holding a circuit court for the eastern district of Pennsylvania.

The petition of Michael Reinhart, and Ann, his wife, Anna Margaret Nichols, James E. Packer, Hannah S. Packer, Maria B. Wilks, Ruth D. McHam, Rhoda Brown Bennett, Susanna West, James W. Packer, Sarah Vickers, Rachel E. Hammitt, Elizabeth Newton, Amy Shinn, Hepzeba Hammitt, Sarah Baxter, Priscilla Brown, Samuel Borton, Jacob Wolohon, Jacob Powell, Samuel E. Hillman, Mordecai Slone, Jane Ryer, E. H. Hammitt, Pamilia A. Horner, Emma C. Keene, Leah Hillman, C. K. Hammitt, M. L. Hammitt, John R. Richards, Daniel Hammitt, who claim to be of kindred with Matthias Aspden, deceased, of the whole blood by the maternal line, and claim to be residuary legatees under the last will of Matthias Aspden, deceased, respectfully pray, that they may be admitted to be made parties to the proceedings pending in the circuit court of the United States, for the eastern district of Pennsylvania, in equity, entitled Packer and others vs. Nixon, executor of Matthias Aspden, of April sessions, eighteen hundred and twenty-eight, No. 1; and that they may be allowed to make proof of their title to their respective shares and proportions of the estate of said Matthias Aspden, in the hand of his executor or administrator, with the will annexed.

BLYTHE & HARRIS,
Attorneys for petitioners.

Petition of Sarah R. Kirkbride and others.

To the honorable the judges of the circuit court of the United States.

The petition of Sarah R. Kirkbride, Leah Prickett, Maria Foster, Nathan Carter, John S. Carter, Elizabeth Carter, Daniel Carter, William Carter, Martha Kean, Andrew Sweaton, Mary Vickers, Phœbe Vickers, and Hannah Vickers, respectfully showeth: That your petitioners are, as they firmly believe, entitled to have distribution made to them as the parties contemplated in and by the will of Matthias Aspden, deceased, late of the city of Philadelphia; which will is set forth in certain proceedings instituted in this honorable court, consisting of a bill filed by Samuel Packer against Henry Nixon, executor of Matthias Aspden, deceased, and the answer of the said Henry Nixon; the same being filed as No. 1 to April sessions, 1828.

That your petitioner, Sarah Kirkbride, is intermarried with Stacy Kirkbride; that her maiden name was Hammitt; that she is the daughter of George Hammitt, who was the son of Joseph Hammitt, who was the son of Rhoda Hammitt, who was the sister of Rebecca, the mother of Matthias Aspden, the testator.

That Leah Prickett is the daughter of George Hammitt, who was the son of Joseph Hammitt, who was the son of Rhoda Hammitt, who was the sister of Rebecca, the mother of Matthias Aspden, the testator.

That Maria Foster is the granddaughter of George Hammitt, who was the son of Joseph Hammitt, who was the son of Rhoda Hammitt, who was the sister of Rebecca, the mother of Matthias Aspden, the testator.

That Nathan Carter and John S. Carter are the sons of Daniel Carter, who was the son of John Carter, who intermarried with Sarah Hammitt, who was the daughter of George Hammitt, who was the son of Joseph Hammitt, who was the son of Rhoda Hammitt, who was the sister of Rebecca, the mother of Matthias Aspden, the testator.

That Daniel Carter is the son of Nathan Carter, who was the son of Daniel Carter, who was the son of John Carter, who intermarried with Sarah Hammitt, who was the daughter of George Hammitt, who was the son of Joseph Hammitt, who was the son of Rhoda Hammitt, who was the sister of Rebecca, the mother of Matthias Aspden, the testator.

That William Carter, Daniel Carter, Elizabeth Carter, and Martha Kean, are the children of Daniel Carter, who was the son of Daniel Carter, who was the son of John Carter, who intermarried with Sarah Hammitt, who was the daughter of George Hammitt, who was the son of Joseph Hammitt, who was the son of Rhoda Hammitt, who was the sister of Rebecca, the mother of Matthias Aspden, the testator.

That Andrew Sweaton is the husband of Ann Carter, who was the daughter of Daniel Carter, who was the son of John Carter, who intermarried with Sarah Hammitt, who was the daughter of George Hammitt, who was the son of Joseph Hammitt, who was the son of Rhoda Hammitt, who was the sister of Rebecca, the mother of Matthias Aspden, the testator.

That Hannah Vickers, Mary Vickers, and Phœbe Vickers, are the children of Jesse Vickers, who intermarried with Keziah Hammitt, who was the daughter of George Hammitt, who was the son of Joseph Hammitt, who was the son of Rhoda Hammitt, who was the sister of Rebecca, the mother of Matthias Aspden, the testator.

Your petitioners aver that the said Matthias Aspden, the testator, was born in the State of Pennsylvania, and that he was domiciled in the said State of Pennsylvania at the time of making his said will; and also at the time of his death; and also during the whole period which intervened between the making of the said will and his death.

Your petitioners pray that they may be admitted as parties to the said suit and to the revivals thereof against Joseph Trotter, administrator de bonis non with the will annexed of the said Matthias Aspden, deceased,

in the room and stead of Henry Nixon, deceased, for the purpose of claiming the fund in the hands of the said executor, and that your honors will be pleased to direct such inquiries to be made as to their claim as justice may require; and, finally, that the said fund may be decreed to them, the said petitioners, as may in justice and equity appertain.

And your petitioners will ever pray, &c.

C. GUILLOU,
A. J. FISH,
Of counsel with petitioners.

Petition of Edward Hartley and Thomas Adams.

To the honorable the judges of the circuit court of the United States, in and for the eastern district of Pennsylvania, in the third circuit, sitting in equity.

The petition of Edward Hartley and Thomas Adams, in right of the said Thomas's wife, Barsheba, formerly Barsheba Hartley, respectfully showeth, that your petitioners were, upon their petition filed in said cause, admitted as parties to the original bill.

That on the 8th day of June, 1835, this honorable court granted leave to amend the said bill, and that your petitioners were, on the sixth day of July, 1835, admitted as parties to the said amended bill.

That the said Henry Nixon departed this life on or about the 18th day of August, 1840, and administration de bonis non with the will of Matthias Aspden, deceased, annexed, was granted by the register of wills for the city and county of Philadelphia, unto Joseph Trotter, of the county of Philadelphia, on the 12th day of July, 1841, who has ever since acted as said administrator.

That the original plaintiff in said cause, on the tenth day of September, 1841, exhibited his bill in this court, to revive the same against the said administrator, who became party defendant thereto.

Your petitioners pray that they may be admitted as parties, on the record, to the said suit, for the purpose of claiming the funds admitted to be in the possession of the said defendants, or a part thereof, as to them, each or either of them, shall appear to your honors justly and equitably to appertain.

D. McLAUGHLIN,
Att'y for said petitioners.

March 8th, 1848.

Answer of Joseph Trotter, administrator, &c.

Afterwards, to wit, on the same day, the answer of Joseph Trotter, administrator, &c., to the bill of revivor is presented; which answer, being read and filed, is in the words and of the tenor following, to wit:

To the honorable the judges of the circuit court of the United States, in and for the eastern district of Pennsylvania, in the third circuit.

The answer of Joseph Trotter, administrator de bonis non cum tes-

tamento annexo of Matthias Aspden, deceased, to the bill of revivor, filed in the above case, respectfully showeth:

This defendant, now and at all times hereafter, saving and reserving unto himself all legal exception to the said complainants' said bill of revivor, for answer thereunto saith: That he believes it to be true that on or about the times in the said bill of revivor stated, Samuel Packer, in the said bill of revivor named, exhibited his original and amended bills of complaint in this honorable court against Henry Nixon, executor of the last will and testament of Matthias Aspden, deceased, thereby stating and praying to the effect as is in the said bill of revivor set forth; and that the said defendant, Henry Nixon, in said original and amended bill named, appeared and put in his answers thereto, and that such proceedings have since been had in said cause as are in said bill of revivor mentioned; but for his greater certainty craves leave to refer to the said original and amended bills, answers, and other proceedings, now remaining filed of record in this honorable court.

And this defendant further answering says, that he admits it to be true, that before any other proceedings were had in the said cause, and at or about the time the said bill of revivor in that behalf stated, the said Henry Nixon departed this life; and that, after his decease, letters of administration de bonis non cum testamento annexo of Matthias Aspden, were granted by the register for the probate of wills, &c., for the city and county of Philadelphia, to your respondent, and that he has taken upon himself the burthen and execution of said will, and possessed himself of the personal estate and effects as far as he has been able to do so.

And this defendant further answering says, that he submits that said suit and proceedings, which became abated on the death of the said Henry Nixon, may stand and be revived against him as administrator de bonis non cum testamento annexo, as aforesaid, and be restored to the same plight and condition in which they were at the time of the decease of the said Henry Nixon; and to abide such further order and decree in the premises as your honorable court may direct.

JOSEPH TROTTER,
Administrator, &c.

Joseph Trotter, the respondent above named, being duly affirmed according to law, doth depose and say, that the facts set forth in the foregoing answer are just and true to the best of his knowledge and belief.

JOSEPH TROTTER.

Affirmed and subscribed before me, this twenty-ninth day of February, A. D. 1848.

CHAUNCEY BULKLEY,
Alderman.

Report of the master on the reference of October 2, 1847.

Afterwards, to wit, on the same day, the master aforesaid presents

his report under the order of reference of the second of October, A. D. 1847; which report, being read and filed, is in the words and of the tenor following, to wit:

In the circuit court of the United States, for the eastern district of Pennsylvania.

Between Samuel Packer, complainant, and Joseph Trotter, administrator de bonis non cum testamento annexo of Matthias Aspden, deceased.

To the honorable the judges of the circuit court of the United States, for the eastern district of Pennsylvania.

Respectfully report.

That in pursuance of an order made in this cause on the second day of October last, by which the docket in this case and all the papers filed, were referred to me to inquire and report what is the present state of the case in reference to the parties and counsel before the court; and that I should report particularly—

1st. Who are all the parties in the case before the court.

2d. By [whom] the parties are represented as counsel.

3d. The state of the pleadings and the issues to be determined.

And that I should also report what papers, if any, ought to be printed; I caused personal notice of the reference to be given to each of the solicitors on record of the several parties in the cause, and requested their attendance at my office, on Wednesday, the 22d of December last, at four o'clock in the afternoon of that day; and I also caused an advertisement to the same effect to be published in the "Legal Intelligencer," printed in this city.

On the said day, and at other meetings afterwards held, I was attended by the following gentlemen, representing different parties in the cause, viz:

Benjamin Tilghman, esquire.
Josiah Randall, esquire.
William Rawle, esquire.
Henry J. Williams, esquire.
John M. Read, esquire.
Henry D. Gilpin, esquire.
Jacob Hoffman, esquire.
William B. Reed, esquire.
Calvin Blythe, esquire.
Geo. W. Harris, esquire.
John L. Newbold, esquire.
Peter M'Call, esquire.
M. Russell Thayer, esquire.
A. J. Fish, esquire, and by
Mr. Thomas Aspden.

And having been furnished with copies of the docket entries, and

with the papers filed in the case, and having heard the statements and suggestions of the several gentlemen appearing as counsel in the case, I find as follows:

1. In respect to the parties in the cause before the court.

This suit was commenced on the 28th of February, 1828, by a bill filed on behalf of Samuel Packer, complainant, against Henry Nixon, executor of the will of Matthias Aspden, deceased. The answer was filed on 4th of October, 1828. On the 16th of February, 1829, a petition was presented on behalf of Joseph Lippincott, and of sixteen other persons claiming to be heirs-at-law, or next of kin, and praying to be admitted parties. And at various times since that date, many other petitions have been presented on behalf of divers other persons, some claiming as heirs-at-law, and others as next of kin; and all praying to be admitted as parties to the suit.

During the long period that has elapsed since the commencement of these proceedings, many of the petitioners have, doubtless, departed this life, and their rights or claims have passed to their legal representatives. In some few instances those representatives have been substituted on the record; but it is believed that there are many cases in which this substitution has not taken place. I have endeavored to obtain satisfactory information upon this subject, but without success. Most of the petitioners resided out of this State at the date of their respective petitions; some of them in remote States; and the gentlemen who appeared for them upon the record were imperfectly informed in respect to [the] present condition and situation of many of their clients.

In all, it would seem that about one hundred and eighty persons have, since the commencement of the proceedings, been made parties, as complainants and defendants; but how many, or which of the present petitioners, are to be considered as successors to the rights of preceding parties, or as their legal representatives, neither the papers on file, nor the statements made by the counsel, have enabled me to determine.

Under these circumstances, and in this state of information, I cannot report with sufficient certainty who are the present actual parties in the cause.

I have, however, prepared a list or schedule, which is annexed to this report, (marked A,) which contains the names of the parties on record, in the order in which their petitions were filed, omitting those whose death has been ascertained. It is proper here to state, that, in the year 1840, Henry Nixon, the original defendant, departed this life, and that Joseph Trotter was appointed by the proper authority administrator de bonis non cum testamento annexo, and a bill of revivor filed against him.

2d. The next point of inquiry respects the representation of the parties by counsel.

It appears from the record that there have been several changes of counsel during the period that has elapsed since the commencement of the proceedings. In the schedule annexed, marked A, I have placed

the names of the present counsel for the several parties opposite to the names of their respective clients, so far as I have been enabled to do so from the record and the information furnished.

In respect to the counsel of Thomas Aspden, the representative of John Aspden, of Lancashire, in England, it is proper for me to state, that I was attended at the first meeting by Jacob Hoffman, esquire, of Reading, in this State, as one of the counsel for the said Thomas Aspden, and that I was also attended by William Rawle, esquire, who represented to me that the present counsel of the said Thomas Aspden were John Sergeant, esquire, James M. Broom, esquire, and himself, (the said William Rawle, esquire.) The said Thomas Aspden, however, in his proper person, stated that he did not recognise either the said Jacob Hoffman, or Charles J. Ingersoll, or David Hoffman, esqrs., as his present counsel, and that he had not retained James M. Broom, esquire, as his counsel in this suit.

At the request of Horace Binney, esquire, I report that he is no longer of counsel in this cause; and I annex to this report a statement of facts communicated by him.

3d. The next point in respect to which I was directed to inquire, is "the state of the pleadings, and the issues to be determined."

A short history of the proceedings in the case is proper for the understanding of the present position of the pleadings.

The suit was commenced, as already stated, by a bill, filed on the 28th of February, 1828, by Samuel Packer, a citizen of New Jersey, against Henry Nixon, executor of the will of Matthias Aspden, deceas'd. An answer was put in by Mr. Nixon, in which he admitted the facts of the making of the will, and the death of the testator; alleged that John Aspden, of London, claimed to be heir at common law of the testator, and, as such, had filed a bill in the court of chancery in England; and that divers persons in this country claimed to be next of kin to the testator, and he submitted to the directions of the court. Annexed to the bill was a schedule or list of claimants, among whom was the name of John Aspden, of Lancashire, England.

After the filing of the answer divers petitions were presented on behalf of persons claiming to be heirs or next of kin; and, on the 18th of May, 1829, it was referred to the master to inquire and report who were all the heirs and next of kin of the testator.

During the pendency of the reference before the master, divers other petitions were filed; and among them was a petition of John Aspden, of Lancashire, claiming as heir at common law. In December, 1831, the master made a report in which he found that the said John Aspden, of Lancashire, was the heir at common law, and that divers persons, whose names and lineage were set forth in a schedule annexed to that report, were of kin to the testator.

On the 26th of December, 1833, this court made a decree by which the whole estate was declared to belong to the said John Aspden, of Lancashire.

Appeals were taken from this decree; and in January, 1835, the Su-

preme Court of the United States reversed the decree of this court; and by their decree declared that it was necessary that an averment of the domicil of the testator should be made in the bill and in the several petitions.

The cause was accordingly remanded for this purpose. In January, 1835, a bill was filled by Janet or Jennet Jones and Thomas Poole, and Mary, his wife, (in her right) against Mr. Nixon, as executor, and John Aspden, of Lancashire, averring that the said Janet and Mary were the daughters and co-heiresses of John Aspden, of London, then deceased, stated to be the heir-at-law of the said Matthias Aspden, and claiming the estate as such. In June of the same year, the said Janet Jones and Mary Poole, widow, presented their petitions, making the same averments as in their bill, with an additional averment in respect to the domicil of the testator, and claiming again the estate and fund. At the same time was presented the petition of John A. Brown, administrator of the said John Aspden, of London, making similar averments and claims in right of the said John Aspden.

In June, 1835, an amended bill was filed on behalf of Samuel Packer, the complainant; and divers petitions on behalf of former petitioners, all amended so as to contain the averments in respect to domicil, declared to be necessary by the Supreme Court. In August, 1835, an answer was put in by Mr. Nixon to the amended bill; and in October of the same year divers replications were filed by the petitioners. At the same term pleas in bar to the bills and petitions of Mrs. Jones and Mrs. Poole, and of Mr. John A. Brown, administrator of John Aspden, of London, were put in.

These pleas averred certain proceedings in the courts of chancery and exchequer, in England, on the part of the said John Aspden, in his lifetime, and of Mrs. Jones and Mrs. Poole, after his death, and pleaded them in bar to their suits in this court. These pleas were not supported by affidavits; and, upon the question, whether affidavits were necessary, the judges of this court were divided in opinion, and ordered the question to be certified to the Supreme Court.

At January term, 1836, the Supreme Court declared that such division of opinion was not a matter to be certified under the act of Congress, and ordered the case to be remanded. After the return of the record, the pleas appear to have been verified by affidavit; and replications were put in on the part of Mrs. Jones and Mrs. Poole, and of Mr. John A. Brown, administrator; and rejoinders to these replications, were afterwards put in.

On the 10th of September, 1841, a bill of revivor was filed on behalf of Samuel Packer, the original complainant, against Joseph Trotter, who succeeded Mr. Nixon in the administration of the estate; and on the same day a petition was presented on behalf of John Aspden, of Lancashire, praying to be admitted a party to the revived suit.

The case stood thus upon the pleadings at the time of the last argument in this court, which turned upon the effect of the proceedings in

equity in England, as set up by the pleas in bar. The result was a difference of opinion upon the bench, on the effect of the evidence in support of the pleas in bar, which division was certified to the Supreme Court.

In January, 1846, that court decided and certified to this court that "the evidence introduced, touching the plea in bar, is no estoppel to the representatives of John Aspden, of London, in so far as they seek to recover the assets of Matthias Aspden's estate in the course of administration by the orphans' court of Philadelphia county."

At the time, then, of the reference to me, the record exhibited an amended bill, revived against the present administrator of Aspden, and one petition to be made a party to the revived suit, viz., the petition of Thomas Aspen; but no answer to the revived bill; and, as far as could be ascertained, no formal appearance for the administrator de bonis non, &c. There were also divers petitions which were presented before the revival of the suit against the present administrator; most of them containing the averment of domicil, but some without it. To the pleas in bar, there were also, as I have stated, certain replications.

In consequence of the communication of these facts, on settling the draught of this report, an appearance has been entered for Mr. Trotter, and an answer filed by him; and certain of the petitioners have presented petitions praying to be admitted parties to the revived suit.

In the annexed schedule A, the petitions which have been amended, so as to contain the averment of domicil, are distinguished by the letter A; and those which have been applied to the revived suit, by the letter R.

Upon the pleadings, then, as they stand, the following issues appear to arise:

1st. An issue of law upon the construction of the will.

2d. An issue or issues of fact and law in respect to the domicil of the testator, at the date of the will, at the time of his death, and during the intermediate time.

3d. An issue of fact in respect to heirship to the testator, viz., whether John Aspden, of London, or John Aspden, of Lancashire, or either of them, was at the time of the death of the testator his heir at common law.

4th. Issues of fact in respect to the heirship or relationship of the several petitioners, to the testator.

I do not find from the record, and cannot learn, that any other issues are at present depending.

4th. I am also directed to report what papers ought to be printed.

I find, upon inquiry, that the following documents have been printed by the order, or under the authority, of the court, viz:

1st. The first report of the master, (December 12th, 1831,) with the accompanying depositions. The schedule or table of kindred, which accompanied the report, does not appear to have been printed.

2d. The second report of the master, (October 12th, 1833,) with the accompanying depositions.

3d. The "letters and others documents" produced by the executor in 1837, and printed by order of the court, under direction of the master.

Various other documents, connected with the case, including the bill and answers, appear to have been printed at Washington, in the different paper books prepared for the Supreme Court.

I suggest that the following papers ought to be printed:

1st. The fourth report of the master, (October 4th, 1837,) with the depositions accompanying it.

2d. The fifth report of the master, (June 9th, 1842,) with the depositions accompanying it.

3d. The depositions taken on the last commission to England.

4th. The docket entries in the case, with the minutes therein referred to.

5th. The present report.

All of which is respectfully submitted by

T. I. WHARTON, *Master*.

Philadelphia, March 13th, 1848.

A.

Schedule containing the names of the present parties to the suit, with the names of their present solicitors or counsel.

Samuel Packer,	Complainant,	Thomas A. Budd.
Joseph Trotter,	Defendant,	Henry Chester.
Joseph Lippincott,	Petitioner,	David Paul Brown.
Leah Prickett,	do	do
Martha Cole,	do	do
Lydia Blackwood,	do	do
Maria Hays,	do	do
John Hammett,	do	do
Ketura Schenck,	do	do
Stacy Kirkbride, (in right of his wife Sarah,)	do	do
Thomas Hammett,	do	do
John Hammett,	do	do
Elizabeth Newton,	do	do
Hepsabah Hammett,	do	do
Anna Shinn,	do	do
Priscilla Brown,	do	do
Sarah Baxter,	do	do
Sibilla Prickett,	do	do
Rebecca Phillips,	do	do
Thomas H. White, A.	do	do

Thomas H. White, executor of Elizbaeth M'Pherson,	A. Petitioner,	Benj. Tilghman.
Henry Reed and Elizabeth, his wife, in her right,	A. do	do
Ann Emily Bronson,	A. Petitioner,	Benj. Tilghman.
William White Bronson,	A. Petitioner,	do
Job Packer,	do	John Bouvier.
William F. Packer, his assignee,	A. do	
Mary Harrison, by John B. Francis, in right of his wife Elizabeth, testamentary guardian,	A: do	Benj. Tilghman.
Samuel Champion and Sarah, his wife, in her right,	A. do	
Ann Ellis,	A. do	
Rebecca Burrough,	do	B. Tilghman and H. Chester.
Asher Hartley,	A. do	do
Barsheba Brick,	A. do	do
Samuel Brick and Elizabeth, his wife,	A. do	do
John Brick,	A. do	do
Thomas Hartley,	A. do	B. Tilghman and H. Chester.
Edmund Brown,	A. do	do
Mary Brown,	A. do	do
Elisha Brown,	A. do	do
Benjamin Brown,	A. do	do
Thomas Brown,	A. do	do
Chalkley Brown,	A. do	do
Israel Brown,	A. do	do
Jennet Jones,	A. do	H. J. Williams and W. B. Reed.
Mary Poole,	A. do	do
John A. Brown, administrator of John Aspden, of London.	A. & R. petitioner.	H. J. Williams and W B. Reed.
Mahlon Doane and Rebecca, his wife, in her right.	A. do	
Mary Ann Church,	A. do	Benj. Tilghman.
James M'Murtrie and Rebecca, his wife, in her right.	do	do

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Ann Worrell, A.	Petitioner,		Benj. Tilghman.
Rebecca Bolton, A.	do		do
E. Hartley, A. & R.	do		D. McLaughlin.
Thomas Adams, in right of his wife, Bersheba.	A. & R.	do	do
Widow of Samuel Zane, A.	do		Thomas M. Read.
Aaron Zane, A.	do		do
Ebenezer Zane, A.	do		do
Eaton Zane, A.	do		do
John Zane, A.	do		do
Bersheba Zane, A.	do		do
Jane Zane, A.	do		do
Joseph Edwards and Rebecca, his wife, in her right.	A.	do	do
Elizabeth Hinchman, A.	do		Peter McCall.
Joseph Heritage and Catharine, his wife, in her right.	A.	petitioner.	Peter McCall.
Joseph White and Hannah, his wife, in her right.	A.	do	do
Benjamin Thomas and Rebecca, his wife, in her right.	A.	do	do
Thomas Aspden, successor, executor, eldest son and heir-at-law of John Aspden, of Lancashire, dec'd."	A. & R.	do.	John Sergeant, William Rawle.

Michael Reinhart, and Ann, his wife,	A. & R.	Petitioner.	Blythe and Harris.
Anna Margaret Nichols,	do	do	do
James E. Packer,	do	do	do
Hannah S. Packer,	do	do	do
Maria B. Wilks,	do	do	do
Ruth D. M'Nain,	do	do	do
Rhoda Brown Bennet,	do	do	do
Susannah West,	do	do	do
James W. Packer,	do	do	do
Sarah Vickers,	do	do	do
Rachel E. Hammett,	do	do	do
Elizabeth Newton,	do	do	do
Anny Shinn,	do	do	do
Hephzebah Hammett,	do	do	do

Sarah Baxter,	A. & R.	Petitioner.	Blythe & Harris.
Priscilla Brown,	do	do	do
Samuel Barten,	do	do	do
Jacob Wolohan,	do	do	do
Jacob Powell,	do	do	do
Samuel E. Hillman,	do	do	do
Meriam Slone,	do	do	do
Jane Dyer,	do	do	do
E. H. Hammett,	do	do	do
Elizabeth Hammett	do	do	do
Pamelia A. Horner,	do	do	do
Emma C. Keene,	do	do	do
Leah Hillman,	do	do	do
C. K. Hammett,	do	do	do
M. L. Hammett,	do	do	do
John R. Richards,	do	do	do
Daniel Hammett,	do	do	do
Lydia Blackwood,	do	do	do
William S. Hammett,	do	do	do
John R. Pedrick,	do	do	do
Elizabeth Pedrick,	do	do	do
Hannah Pedrick,	do	do	do
Sarah A. Pedrick,	do	do	do
Samuel Pedrick,	do	do	do
Mary Pedrick,	do	do	do
Keziah Pedrick,	do	do	do
Joseph Pedrick,	do	do	do
Cynthia A. Pedrick,	do	do	do
Lavinia Pedrick,	do	do	do
Amanda Pedrick,	do	do	do
Sarah R. Kirkbride,	do	do	C. Guillou and A. J. Fish.
Leah Prickett,	do	do	
Maria Foster,	do	do	
Nathan Carter,	do	do	
John S. Carter,	do	do	
Elizabeth Carter,	do	do	
Daniel Carter,	do	do	
William Carter,	do	do	
Martha Kean,	do	do	
Andrew Sweaton,	do	do	
Mary Vickers,	do	do	
Phœbe Vickers,	do	do	
Hannah Vickers,	do	do	
Sophia Harrison, executrix of the will of G. Harrison, dec'd.	do	do	B. Tilghman and H. D. Gilpin.

Eliza Thompson,	A. & R.	Petitioner.	J. Randall and W. L. Hirst.
Rebecca Vansciver,	do	do	do
Elizabeth Hammett,	do	do	do
Charles Borton,	do	do	do
Ruth P. Maull,	do	do	do
Bartholomew Carter,	do	do	do
Obadiah Berton,	do	do	do
Mason,	do	do	do
Susan Hampton,	do	do	do
Rachel E. Hammell,	do	do	do
Hannah Packer,	do	do	do
Samuel B. Hunt,	do	do	do
Ralph Hunt,	do	do	do
John R. Richards,	do	do	do
John Boqua,	do	do	do
Elizabeth Newton,	do	do	do
Jesse P. Barton,	do	do	do
Sarah Borton,	do	do	do
Lydia Blackwood,	do	do	do
Elinor P. Laconey,	do	do	do
Rachel E. Day,	do	do	do
Elizabeth B. Wady,	do	do	do
Martha Stewart,	do	do	do
A. M. Nichols,	do	do	do
Samuel Borton,	do	do	do
Charles E. Edwards,	do	do	do
Hannah P. Edwards,	do	do	do
Edward Duffee,	do	do	do
Asa Vansciver,	do	do	do
Charles B. Packer,	do	do	do
Bracilla Carter,	do	do	do
Samuel Warric,	do	do	do
Mary Warric,	do	do	do
Samuel P. Cox,	do	do	do
Rhoda Powell,	do	do	do
Rachel Packer,	do	do	do
Jeremiah Carter,	do	do	do
Hugh C. Cox,	do	do	do
Bersheba Thompson,	do	do	do
John A. Packer,	do	do	do
Jacob Wolohan,	do	do	do
Sarah Carter,	do	do	do
Lewis Waterman,	do	do	do
Samuel Waterman,	do	do	do
J. M. Schenck,	do	do	do
James E. Packer,	do	do	do
Joseph Marsh,	do	do	do

Ruth P. Marsh,	A. & R.	Petitioner.	Randall & Hirst.
Dr. E. D. Marsh,	do	do	do
Susannah P. Marsh,	do	do	do
Elizabeth Packer,	do	do	do

PACKER vs. NIXON. } C. C. U. S., April sess., 1828. No. 1. In equity.

The undersigned having received a notice from the master in this case, informing him that the master is directed by the court to inquire by whom the parties in the cause are represented as counsel, takes occasion to represent—

That he is not, and has not been for many years, of counsel in the cause for any party to the record.

That in 1829, as counsel for the late George Harrison, esq., he presented a petition in the cause, praying that the said George Harrison might be made a party to the suit; but that for very many years past, in the lifetime of Mr. Harrison, he ceased to be his counsel in the cause, and since his death he has never represented Mr. Harrison's executors in the cause, if the cause stands revived as to them. In 1831, as counsel for Mary Harrison, by her mother and testamentary guardian, Elizabeth Harrison, he also presented a petition praying that the said Mary might be made a party to the suit. And he is informed and believes that the said Mary afterwards died, and that her interest in the cause passed to her mother, the said Elizabeth, who intermarried with John Brown Francis, esq., of Rhode Island. That he has never represented Mr. or Mrs. John Brown Francis in the cause, if they are parties thereto.

The only two parties to the record whom he ever represented in the cause having thus died, and his connexion with the cause having been thus broken off, and never representing any of the parties who may have succeeded thereto, he requests the master to report this state of facts, and that the undersigned is no longer of counsel in the cause.

HORACE BINNEY.

March 3d, 1848.

References to master.

Afterwards, to wit, on the same day, on motion of William B. Reed, esquire, for administrator of John Aspden, of London, it is ordered that the documents referred to in the report of the master, filed this day, be printed under the supervision of the master.

Afterwards, to wit, on the seventeenth day of March aforesaid, it is ordered by the court here that the master be directed to cause to be printed, for the use of the court, on the hearing of this cause, such records and papers on file in the clerk's office, and all such papers as may be in possession of the administrator belonging to the testator, as

may be desired by any of the parties litigant, or be deemed material by the master.

Afterwards, to wit, on the third day of April, and year last aforesaid, it being represented that the first paper book in this case, viz., the depositions taken in 1829, 1830, and 1831, by the master, is out of print, so that copies thereof cannot be obtained by the counsel and parties interested, it is ordered that the master cause the same to be reprinted, and a sufficient number of copies prepared to answer present and future demands; the expense of such printing to be paid out of the fund.

Report of the master on the references to him of the 14th and 17th of March, and 3d April, 1848.

Afterwards, to wit, on the twentieth day of April aforesaid, the report of the master on the references to him of the fourteenth and seventeenth of March, and third of April, 1848, is presented; which report, being read and filed, is in the words and of the tenor following, to wit:

To the honorable the judges of the circuit court of the United States, for the eastern district of Pennsylvania.

I respectfully report, that, in pursuance of the orders of this court, made in this cause on the 14th and 17th days of March last, by which it was ordered that the documents referred to in the report of the master, filed on the said 14th day of March, 1848, be printed under his superintendence; and also that the master cause to be printed for the use of the court such records and papers on file in the clerk's office, and all such papers as may be in the possession of the administrator belonging to the testator, and may be desired by any of the parties litigant, or be deemed material by the master, I caused notice to be given to each of the solicitors and counsel of the several parties in the cause, and requested their attendance at my office on Monday, the 27th of March last, at four o'clock, p. m.; at which time and place I was attended by Benjamin Tilghman, Calvin Blythe, John M. Read, Jacob Hoffman, John L. Newbold, William B. Reed, A. J. Fish, and William H. Rawle, esquires, representing various parties in the cause, and by Mr. Thomas Aspden. And at the said meeting, or on subsequent days, I was requested by the said counsel, or by some of them, to cause the following mentioned documents and papers to be printed, viz:

1st. The petition of Janet Jones and Thomas Poole and wife, filed 17th June, 1834.

2d. The affidavit of James Neville, filed 2d December, 1834.

3d. The affidavit of James S. Smith and Henry J. Williams, esqrs., filed same day.

4th. The mandate of the Supreme Court of the United States, filed 8th June, 1835.

5th. The inventory and appraisement of certain books and other

articles found in Mr. Aspden's trunk, which inventory was received from the administrator.

6th. A document in the Italian language, purporting to be a receipt given to Mr. Aspden by an Italian, for passage to Naples, which document was also found in the said trunk by the said administrator.

7th. An exact translation of the last mentioned document, and of two other Italian papers, purporting to be passports, heretofore printed.

8th. A communication to the "American Daily Advertiser," published in Philadelphia, in 1792, signed Matthias Aspden.

9th. A communication to the London "Morning Post," published in 1793.

10th. A communication to the same Journal published in 1794, (which said three newspapers were, with other copies of the same, found in the said trunk.)

11th. A memorial to the orphan's court for the city and county of Philadelphia, purporting to be signed by certain relations of Thomas Aspden.

All which said papers, as well those ordered by the court on the 14th of March last to be printed, as those last enumerated and described, I have caused to be printed in a suitable manner for the use of the court and of the counsel, and I superintended the printing of the same, and I read and corrected the proof sheets thereof; and I report the same to be just and true copies of the said several documents and papers.

And I further report that I caused a translation of each of the Italian documents and papers above mentioned to be made by a person skilled in the Italian tongue, and I swore and examined the said person to the accuracy of the translation.

And I further report that, in pursuance of the order of this court, made on the third day of April, instant, by which I was directed to cause the depositions taken in 1829 and 1830, with the exhibits annexed, to be re-printed, the same being out of print, I caused the said depositions to be re-printed, and superintended the printing thereof; and I report that the same are just and true copies thereof. At the request, and by the agreement of the counsel, 250 copies have been printed of each of the before mentioned documents and papers.

I further report, that the said documents and papers are contained in two printed paper books, distinctly endorsed; and that, having received the same from the printer, I caused notice to be given to the several counsel and solicitors, that the same were ready for delivery to them; and have delivered the same to all such counsel and parties as have applied therefor.

And I deposite, with this report, the remaining copies thereof in the office of the clerk of this court.

And I submit, herewith, the bill of the printer of the said documents, amounting to $452.91.

And I also submit the following communication, received since the printing of the report:

PACKER
vs.
NIXON.

DEAR SIR: In that part of your report relating to the counsel by whom the parties in the above case are represented on page 195 of the paper book, you have reported, I perceive, D. McLaughlin, esquire, as counsel for E. Hartley and Thomas Adams, in right of his wife, &c. I am the present counsel for these parties; in which capacity, you may, perhaps remember, I lately appeared before you. If not too late, I will thank you to correct your report in this respect.

Yours, very respectfully,

(Signed) M. RUSSELL THAYER.

April 19, 1848.

THOMAS I. WHARTON, esquire,
Master.

All which, &c.

T. I. WHARTON,
Master.

April 19th, 1848.

Bill of the printer.

Thomas I. Wharton, esquire, to C. Sherman, Dr.

1848, April 15.	To printing 250 copies paper book, docket entries, viz:		
	Composition, 256 pp. 318,652 m's a 50 -		$159 32
	Alterations, &c., &c., 75 a 30 - -		22 50
	Press work - - - -		33 00
	Paper for do. - - - -		65 00
	Paper and printing cover - - -		2 50
	Binding 50 copies interleaved, &c., &c. -		28 50
			$310 82
Brought forward - - - - -			$310 82
1848, April 15.	To printing 250 copies, depositions, &c.		
	Composition, 112 pp., 149,176 m's a 50 -		74 59
	Press work do., 14 forms - - -		14 00
	Paper for do. - - - -		26 00
	Paper and printing cover - - -		2 50
	Binding 250 do. - - - -		25 00
			$452 91

Copy of inventory and appraisement of articles found in Mr. Aspden's trunk.

(Received from Mr. Trotter, March 16th, 1848.)

We, the subscribers, at the request of Joseph Trotter, administrator de bonis non cum testamento annexo of the estate of Matthias Aspden,

deceased, have examined the contents of an old leather trunk just received from the Bank of North America, belonging to the said estate, and appraised them as follows:

PHILADELPHIA, *June* 18, 1847.

BOOKS.

Dallas' Reports, 1 vol.
Transactions American Philosophical Society, 1 vol.
Principles of Morals, (Hume,) 1 vol.
Proctor's Dictionary, 4 vols.
Explanations of a Map of City and County of Phila., 1 vol.
Paradise Lost, 1 vol.
Nugent's French and English Dictionary, 1 vol.
Cole's Latin and English Dictionary, 1 vol.
Account of Plague in Philadelphia, (Carey,) 1 vol.
Blackstone's Commentaries, 4 vols.
Proceedings relative to Ships, 1 vol.
Fables of the Bees, 1 vol.
1 New Testament,
Complete French Master, 1 vol.
Duché's Discourses, 1 vol.

The books, including those on the next page, were appraised at two dollars.

Solicitor's Practice
Playfair's Arithmetic
Necker's state of France
Letters from an American Farmer, 1 vol.
Observations on Commerce
Les Delices des Pais bas
Fielding's New Peerage
American Calendar, 2 vols., 1798 and 1795
Penn's Fruits of Solitude
Lucan's Pharsalia
East India Register
Latin Grammar
Attorneys' Practice epitomized
Sermons to Asses
A bundle of Pamphlets
Do. do. and Newspapers.
Amount - - - - - - - - - $2 00

A lot of old clothes, including coat, silk vests, breeches, night clothes, &c., &c., &c., - - - - - - - 10 00

Two old swords and sword belt
Two pair of old buckles
Inkstand (broken)
Powder-horn do. } - - - - - 50

$12 50

Say, twelve dollars and fifty cents for the whole.

G. PHILLER,
M. D. LEWIS,
JACOB T. BUNTING.

Philadelphia, June 18th, 1847.

Italian document and translation.

The following was found in Mr. Aspden's trunk, with other papers, by Mr. Trotter, the administrator de bonis non.

"Io sotto scritto o ricevuto piastre dodici moneta effettiva di argento quali sono per un posto in una carrozza del Reggio Procaccia di Napoli per ivi condurre il Signore Mattia Aspeden, Gentiluomo Americano obligandomi oltre il transito della carrozza fargli un pasto il giorno e la camera e in dette dodici piastre prezzo fissato ve è compresa la Bonamano come anche pasti e tutto altro perchè cosi di accordo Roma in fede questo di 24. 7bre. 1802.

Dico piastre argento 12.

Io DOMENICO CAMPANILE."

Translation.

"I, the subscriber, have received twelve dollars in ready silver currency, for a seat in the royal post carriage of Naples, in order to carry Mr. Matthias Aspden, an American gentleman, to that city; while I hereby engage myself, besides the passage, likewise to furnish him with a daily repast and lodgings. In these 12 dollars are comprised the usual hand-money (Buonamano) as well as the fare and all other expenses, according to this agreement. Rome, in good faith, this day, 24th September, 1802.

I say twelve dollars in silver.

I, DOMENIK CAMPANILE."

This is a faithful translation of the foregoing contract.

ADOLPHUS L. KOEPPEN.

Sworn to before me, this 30th March, 1848

T. I. WHARTON, *Master*.

Translations of passports printed in the Italian, at pages 226 *and* 227 *of the paper book, entitled "letters and other documents produced in the case of the succession of Mathias Aspden, de'd."*

(1.) No. 163, page 226.

Passport to Matthias Aspden, from Naples, &c.

"Don Giovani Acton, knight of the illustrious royal order of St. Januarius, commander of the military order of St. Stephen, general-in-chief of the army and royal navy, and councillor of State in actual service, with seat in all the councils of his majesty.

For the American, Matthias Aspden, departing for Rome. ("e Lomo.")

By order of His Majesty, I request all his ministers and officers of justice and war, and all those who do not belong to those departments I command in his royal name, not to cause him any trouble, nor in any way to hinder his journev, but on the contrary to render him all the assistance which he may require in order to accomplish it.

JOHN ACTON.

Naples, October the 7th, 1802.

Passed through Capua, Oct. 10th, 1802.

[L. S.] CHARLES INGALDO,
Adjudant major of the fortress.

Seen at Mola di Gaeta, Oct. 10, 1802.

Lieutenant JOSEPH DE LIGUORO,
Commander.

Seen at the Portello, (Land-gate of Gaeta,) Oct. 11th, 1802.

Sergeant AIGGIO.

Gratis.

Valid for three days."

II. No. 164, page 227.

Passport to Matthias Aspden, from Cardinal Gonsalvi, in Rome.

[L. S.]

"Hercules di Sa. Agatha of the Suburra, Monsignore Consalvi, Cardinal Deacon to His Holyness, our sovereign, the Pope Pius VII, and Secretary of State.

The American, Mr. Matthias Aspden, departing from Rome to Florence, we furnish with the present passport, in order that he, in case of need, may receive all the requested assistance in the places through which he may pass or make any stay.

We therefore order and command all the officers (or ministers [employés]) of the Papal States, and we request every foreign officer not only to let him pass unmolested, but moreover to render him any assistance which he may think proper to demand.

[L. S.] Card. GONSALVI.

ROME, *Oct. 15th*, 1802.

Valid for eight days, gratis.

Endorsed in Florence, Nov. 6th, 1802.

Seen in Turin. G. MOZZI. [L S.]

Seen at the royal military command of the castle of Florence, Nov. 6, 1802.

GUADAGNI,
Lieutenant and commander of the fortress.

Seen and valid for the journey to Bologna. Office of the passports in Florence, Nov. 7th, 1803, (1802?)

G. VIGNOAHI, *Inspector*.

These are faithful translations of the foregoing passports.

ADOLPHUS L. KOEPPEN.

Sworn to before me, this 30th March, 1848.

T. I. WHARTON, *Master*.

Communication in the American Daily Advertiser, June 1, 1792.

The following communication appears in "Dunlap's American Daily Advertiser," of June 1, 1792, a newspaper published in the city of Philadelphia. Two copies of the paper containing this communication were found in Mr. Aspden's trunk.

Note.—Some verbal MS. corrections of the text appear to be in Mr. Aspden's handwriting.

For the American Daily Advertiser.

Mr. DUNLAP: Previous to my taking any legal steps for the recovery of my estate—the partial compensation allowed me in England, after five years' attendance, or more, to obtain it, not in the least affecting my claim to it on the ground of right, or can it be urged on that account as any plea in bar to my recovering it—I beg to submit to the eye of an impartial public the following statement of the case through the channel of your paper.

MATTHIAS ASPDEN.

Philadelphia, May 30, 1792.

THE CASE.

Heads of the several acts of assembly relating thereto.

Act declaring what shall be treason, passed February 11, 1777.

"That all and every person and persons, now inhabiting, residing, or sojourning, within the limits of the State of Pennsylvania, (except prisoners of war,) or whoever shall come, &c., do owe and shall pay allegiance to the same," &c.

An act for the attainder of divers traitors, passed 6th March, 1778.

—Being all subjects and inhabitants of the State of Pennsylvania, to render themselves on or before the 20th of April, and take their legal trial, or stand and be attainted of high treason, for having joined the British army, &c.; further enacting, that all and every person and persons, being subjects or inhabitants of this State, or those who have real estates in the commonwealth, (being subjects, it is presumed, is the meaning of the act, or otherwise an incongruity and contradiction in terms, and facts will follow,) who now do adhere to, and knowingly and willingly aid and assist the enemies of this State or the United States

of America, by having joined their armies within the State or elsewhere, or who hereafter shall do the same, and whom the executive council by their proclamation shall require by name to render themselves on a certain day to take their legal trials for such their treasons, &c. In case of not appearing, to stand and be attainted of high treason.

Quere.—Can a person, not a subject, be lawfully tried for treason? Can a man serve two masters?

Supplement to this act—

Empowers the executive council to sell estates of traitors, duly forfeited. Claims on estates to be made within six months. If any attainder reversed or made void, for error, or for any cause whatever, the same not to injure bona fide purchasers, and in such case the party to apply to the legislature for indemnification; purchasers evicted by a judgment of the court of common pleas or supreme court, to be indemnified out of the treasury.

Facts stated.

Mr. Aspden intended to have gone to England in a ship of his, that sailed 10th September, 1775—was prevented, from the distress the circle of his friends were thrown into, from the carting about the streets Doctor Kearsely and Mr. Counsellor Hunt, by the mob; and the appearance it had of a desertion of them at that lamentable period; notwithstanding he was in readiness and stores provided for the purpose of going.

He was also prevented going to England in the Swallow, British packet, from New York, on board which he went with a written permission for that purpose, the latter end of March, or beginning of April, 1776, and had stores sent down, through his application to the [committee and] commanding officer, for himself and other passengers going—and should have gone, had not Governor Tryon required an oath, that he had before given up, on the representation of Mr. Mathews, mayor of New York, from the odious nature of a part of it; who waited on him on board the Duchess Gordon, at the instance of some friends in New York, and his and Mr. Warder's request, (another passenger going,) and brought back answer, that he would decline requiring of them, and that they should go on the conditions proposed on their first application to him, and agreed to, of giving him their letters to enclose to the Secretary of State in England, &c. This assurance was afterwards went from on the part of Governor Tryon, the passengers sent for just on the eve of the packet sailing, and the oath required, much to his astonishment; it was refused by Mr. Aspden, and likewise by Mr. Warder, who were natives of America, except that part of it which went to bear true allegiance—1st, because he had broke his word; and 2dly, from their conceiving that he had no right to require it; and returned on shore on or about the 2d, 3d, or 4th of May, after being a month or more on board the packet, and came back to Philadelphia, where he found his house let, his servants discharged, agree-

able to directions to his half-brother, James Hartley, by letter from on board the packets when he found he had full leave to go.

His residence in America after that he considered merely transient, waiting only an opportunity to leave it; this he flattered he should in the Fowey man-of-war, with Governor Eden, from Annapolis, where he went with an introductory letter to him from a friend for that purpose; urged by the pressure of large concerns in England, which had centered there under the pains of the Prohibitory act, and other compulsive causes, but was disappointed, from the truce being broke, under which she came up the second day after she arrived.

He finally embarked from the port of Philadelphia, in the schooner Bentham, Robert White, master, bound to Corunna, in Spain, and went on board at New Castle, on the 19th or 20th day of September, 1776, (with two other passengers.)

Under the protection of that clause in the Prohibitory act which enters the mariners taken on board American vessels on the books of the King's ship that takes them, and sets the passengers and captain at liberty on shore at the first port in the King's dominion they arrive at. Having done no act to forfeit his allegiance, and having lawful business in England, where he arrived on or about the 2d December following, and there remained till the 1st of June, 1785, when he embarked again at Falmouth for America, except an excursion for about two months in 1778, to Flanders, Germany, and Holland.

Mr. Aspden apprehends his attainder (if in force) may be reversed, for the following causes :

First. For error, as he was not liable to be called upon, having never done the act that gave the council power to require parties to render themselves, etc., to wit, joined the British army.

2dly. That he was born a British subject, and always lived one, having left America and made his election previous to the new Government being either organized or established, and therefore could not lawfully nor justly be called upon to take his trial as a traitor, the circumstances more especially considered under which he left America, and owing allegiance as he did to another State.

3dly. That his attainder was under an act operating non ex post facto, and therefore repugnant or inconsistent with the Constitution, State and federal, the divine law of scripture, and the principles of common justice.

4thly. Independent of the foregoing, he was in duress in England, from the state of his affairs, and cannot now, he believes, be absent long on the same account. And as further evidence of the truth of the first part of this article, and also of the second, he adds, that he was the sole owner of the ship Cumberland when he was called upon to come to America to take his trial, and had been for several years before, upon the purchase of which, or rather reconveyance, he took out a register for her of the collector of the port of Bristol, which could only be granted, being a British subject.

This ship was formerly the Rebecca, belonging to him, out of the port of Philadelphia, built by the late Mr. Benj. Eyre, and sent to England with other vessels of his, in compliance with the Prohibitory act, under the pains thereof.

N. B. His going out to learn the exercise a short time, in the summer of 1775, with the militia of the ward in which he lived, was not voluntary, but done to avoid the resentment of the populace being directed against him (a young man that could urge no admissible excuse) at that time, when the country was thrown into great heats and disorder, from the accounts of the Lexington and Bunker's hill actions and resolves of the convention and committees to arm the inhabitants, &c. Withdrawing from the company he went out with as soon as he could, telling them on the ground openly that such were his engagements that he must decline going out with them any more. And afterwards, when the ward association paper was brought to sign, refused to sign it, and on that account was afterwards disarmed.—See the case adjudged, (Chapman's,) 1781, durante bella, Dallas's Reports.

It is believed by Mr. Aspden that the commissioners in England knew that his estate was not liable to forfeiture, from questions asked him on his examination, and observations made by them, and their keeping him near four years in suspense after his examination, open to an imputation of fraud, before he knew of their determination thereon; and then allowed about half the amount of the valuation of it, including all claims, or what it would have sold for at the time of confiscation in 1782, and not much more even at this period, to be paid in instalments, in eight years, with three and one-half per cent. interest; three years of which was paid last June, and the remainder in the further term of five years, if convenient to Government, and not more than the amount of the rents, he is informed, he might have received from his estate since the peace, had it not been seized as forfeited property.

The question turns, Whether he was a subject of the United States or not, when he was required to come from England to America to take his trial?

Had he been in America when the Treason law was passed, in Feb. 11, 1777, and his affairs had required his going to England, or urged by any other cause to leave America, there is no doubt he would have been permitted to have sold his estate, and had leave to retire, as was allowed he has understood in different instances. This shows the injustice of ex post facto laws, and in his case in particular.

It was not until last winter, a month or two after his return from England, that Mr. Aspden, on going to bring an action for the recovery of a debt of £465 12*s.*, due before the confiscation of his estate, knew the merits of Mr. Chapman's case, who was acquitted, although he had joined the British [army,] on his trial for the same as high treason, in 1781; being deemed and considered as a British subject, from his having made his election before the new government was organized or established.

Communication to the Morning Post. May 6th, 1793.

The following communication appears in "The Morning Post" of May 6th, 1793, a newspaper published in the city of London. Four copies of the paper containing this communication were found in Mr. Aspden's trunk:

To the editor of the Morning Post.

MR. EDITOR: By inserting the following petition, presented some months ago to the P—— C——, the time, he hopes, being now not very far distant when the prayer of it will be heard, and a favorable answer given to it, you will oblige

AN HONEST MAN.

To his M——'s most honorable P—— C——.

The petition of M. A., formerly of the city of Philadelphia, merchant, showeth, that your petitioner, a native of Philadelphia, presented to the commissioners for American claims, about the middle of December, 1783, immediately on the receipt of a valuation made of his estate in America, a memorial on the subject of his losses and sufferings, in consequence of his loyalty and attachment to his majesty's Government, and compliance with the act of the 16th of his present majesty, as required under the pains thereof, entitled "the Prohibitory act," in sending his vessels to England for sale, and thereby giving up and relinquishing for a time, as might be, the means of his support in that country; stating, further, that he had received no allowance or support from Government since his coming to England, in the year 1776, and that his support had been entirely derived from that part of his capital sent as above mentioned, and cargoes his vessels were laden with, and income arising from the same; a part being placed at an early period in the funds of this country; and not the case, he believes, of any other sufferer in rights and estate beside from America.

That your petitioner was examined by the aforesaid commissioners on the subject of his memorial, on or about the 23d of February, 1785, near fifteen months after; and being informed, on inquiry, there had been no allowance made to him under their ensuing report at the treasury, as there had been to others in a similar situation, whose claim had been examined subsequent to his; and as this silence left him open to an imputation of having presented a fraudulent claim, (his estate being confiscated and part sold,) the commissioners, he conceived, having no right to reject his claim, unless fraudulent, and this, as far as he knew or had been able to learn, he was conscious was not; for he could not conceive his answer to a mysterious question asked him on his examination, (a merchant,) whether he intended to go and reside again in America, (when at liberty,) "that he did," could be any authority, under the powers entrusted to them in that act, to reject his claim, or to observe a silence that left him room to suppose they had;

more especially as it might be concluded, as he was a native of America, his mercantile engagements and support might be connected with the tie of birth and residence in that country.

Your petitioner, therefore, applied to the board soon after, by memorial or by letter, to be informed if they had made any report on his claim, as this silence left him in doubt; and if they had, what might be their reasons or objection to not allowing him a compensation on his claim, as they had done to others, that he might bring such proofs as would remove them. To this request your petitioner received the following answer, dated October 6th, 1785:

"That the commissioners had reported on Mr. A's case to the Lords of the Treasury and Secretaries of State, and cannot communicate the particulars of their determination to the parties. No further proofs are required of Mr. A."

This answer, from the latter part of it, appeared to him that the commissioners had finally done with his claim, but left him in a very cruel state of suspense with respect to the particulars or purport of their report; and in this dark state of lingering suspense he continued, notwithstanding his repeated application to the board from time to time, and year to year, to take it up; and once by petition to the Lords of the Treasury to refer his case back to the commissioners, as he understood had been done in some cases, or to inform him, as a matter of justice and humanity, the purport of their report, that he might, if it did not leave an imputation of his having presented a fraudulent claim (his estate having been seized, and a part sold by the State,) be satisfied therewith; or, if it did, that he might have an opportunity of bringing more proofs that would remove every objection to there being anything of that kind in the case.

No answer was given to this by the Lords of the Treasury, or by the commissioners, to his repeated application to them, that was satisfactory, until April, 1778, when his mind was relieved from the pressure of this painful and interesting concern, by the receipt of a letter from the secretary to the commissioners, enclosing him the following minute, nearly upon the close of the inquiry, and after an attendance of near five years on the board.

"That Mr. A. be told that the commissioners had received further information in his case, and would report their opinion on the same in their next report."

This, on issuing their certificates in the month of November following, he found was favorable, although he conceived, according as they had done to others, far from adequate to what his losses and sufferings, and he here may add, services, entitled him to.

That your petitioner continuing in the dark with respect to the particulars or purport of the commissioners' report on his case, and still feeling it heavy on his mind, and the delay he experienced before compensation was allowed him in his claim both unreasonable and injurious, the cause refused to be explained, earnestly requests, as a matter of justice, and, he conceives, of right, that the council would be

pleased to direct copies to be given him of the report first made by the commissioners to the Lords of the Treasury on his case; also of the last, and of such others, if any there be, &c.

A few facts stated in addition, by Abdiel Rose.

Mr. A. has reason to believe his house, before the war, was among the first in point of character, solidity, and profitable commerce in America, and would again, he has reason to believe, had he been able to return on the conclusion of the peace, or soon after, as many others did.

That Mr. A. having done no act to forfeit his allegiance, and this surely should not on that account have made his claim the less meritorious, did not conceive it was needful for him to take the benefit of any proclamations issued at head quarters in America; but forming his conduct by the Prohibitory act, and the assurances it held out, considered, as he was circumstanced, and all cases are governed by their circumstances, that he had a right to avail himself of that clause in the act which directs "that the mariners taken on board American vessels should be entered on the books of the king's ships that took them, and the passengers and captain set at liberty on shore at the first port in the king's dominions the ship arrived at;" trusting here, as already observed, to his innocence for security. He accordingly left America in September, 1776, and came to Corunna, in Spain, in a small unarmed vessel, and from thence to England, in company with two other passengers, natives of Scotland, Mr. Sprowl and Mr. Emanuel Walker, the latter now a respectable merchant in Philadelphia, returning there again soon after the peace, urged, with respect to himself, by apprehension of personal safety, and to the pressure of his affairs in England, which had centered in compliance with the act mentioned; and this he conceived was both a lawful cause for coming to England and for staying when there, whatever other obligations he might be under.

His claim was for a house, wharf, and stores, in the most central part of the city of Philadelphia, and a plantation of 160 acres and upwards, in the county of Chester, fifteen miles from town, both left him under the will of his father, and were valued by persons of character, November 10th, 1783, at 4500*l.* currency, but would have sold for more at the time, and for near as much last summer, and at different periods since, had it been in his possession; the sum allowed by the commissioners, when paid, is 1184*l.* sterling. He told them, on his examination, that his house, he believed, at public sale before the war, would sell for 1000*l.* sterling, and his plantation at 5*l.* 10*s.* currency, per acre; but would much rather have had the estate restored to him, than any compensation for it, as it brought with it a restitution of right.

His claim of debt, from the disposition discovered in the commissioners, was withdrawn, (and was upon the point of withdrawing his claim altogether,) under some belief that dues might be recovered under the treaty, or that some would pay them, notwithstanding the attainder in

force against him; as he believed then, and until last summer, when he discovered, as he now believes, to the contrary, to wit, that he was a subject of the State when called upon to take his trial for treason, and therefore, if he had appeared when required, that he could not have been put on his trial, from some adjudged cases in point, (Dallas's report, published in Philadelphia, in 1790,) and put into his hands on his going to bring an action for the recovery of a debt of 460*l.* His friends, notwithstanding, pressing hotter to them to use their endeavors to get his estates restored, under the recommendatory article, either ignorantly or purposely, kept him in ignorance of this fact; not unlikely the latter, as those on whom he principally relied have since proved very faulty. If the commissioners knew this fact, as there were others besides him who had made their election before any government was established in Pennsylvania, or marine laws passed, they certainly owed it as a duty to the public, as well as to him, to have informed him, that he might have taken the proper legal steps for the recovery of his estate, and not to have kept him wasting his time in attendance for many years in the manner he did.

Mr. A. had two Philadelphia built cedar ships, sold at the port of Bristol, under the act in 1785–'6, and a brig at the port of London, for a very inferior price, and is now under forty-three years of age.

It may here be justly asked, whether the business of the American l—y—sts was settled on any ground or principle, or only according to will and pleasure?

Plume Place, May 4th, 1793.

Communication to the Morning Post, May 1st, 1794.

Communication to the London Morning Post of May 1st, 1794. Three copies of the paper, containing the communication, were found in Mr. Aspden's trunk.

Note.—Some verbal MS. corrections of the text appear to be in Mr. Aspden's handwriting.

For the Paper of the People.

Mr. Editor: The following memorial lately sent to the S———y of the T———y to be presented to the board, affording some matter interesting to the custom-house and public in general, you will oblige a correspondent by giving it a place in your paper.

ABDIEL ROSE.

—Neutral property makes neutral goods.

A word to the wise, who are my sovereigns, who are my masters.

To the right honorable the L—ds C—mrs of the T—y, the memorial of A. P. M., native, and formerly of the city of Philadelphia, merchant, sheweth:

That your memorialist, near eighteen months ago, agreeable to the

advice of counsel, presented the annexed petition to the honorable the P—y C—l, and after many applications to know whether any order had been taken thereon, was a few days ago (a delay, although remediless, I could not avoid feeling grievous) informed, when personally attending, that the granting the prayer thereof rested entirely under the act with your L—d—ps.

That your memorialist, from this information, has been led to present this memorial to your L—d—ps, with the petition annexed, for your L—d—ps' consideration, and for the purposes stated in the prayer thereof; further stating, that your memorialist conceives, unless warranted to judge otherwise on copies of the aforesaid report being furnished him, that [in] an action for damages which he has in contemplation to bring, and which principally brought him from America last [July] was a twelvemonth, from what he learned thereby for delay of justice in the C—m—rs of A—n claims, no cause being assigned him; a conduct both unreasonable and oppressive, and by which he has suffered much, or for reports made contrary to evidence, which he conceives the first to be, that your memorialist would be entitled to the verdict of a jury in his favor.

That your memorialists further states to your L—d—ps, that had the commissioners assigned any reason other than fraudulently, either that they did not think themselves at liberty to allow his claim, from his telling them, in answer to this question, that he intended to go and reside again in America, conceiving his being, from the treaty and Prohibitory act, no real British subject, he had no rights in England; or that he did not look upon the evidence of his attainder as proper evidence of loyalty, or that it did not appear to them that it was in the power of the State of Pennsylvania to attaint him of high treason from the time he left the country, and that his estate might [must] be restored to him at some future day, he should have been satisfied, and withdrawn his claim, and been a rule for others in the same predicament, considerable sums been thereby saved the nation, and been better for the parties, although in not similar circumstances in England with him; to your memorialist, the amount of his claim being no considerable object, it was the more necessary that the cause of it being rejected, or not allowed, in course, should have been explained to him, as he [had] [made] capital to the amount of ten thousand pounds in England, which had centered there as stated, in compliance with the Prohibitory act, to employ again in commerce, or to invest in the purchase of freehold estates, when at liberty; and believes, if he had withdrawn his claim, reasonable cause being assigned him, he should, many years ago, have been happily settled again in America, and long before this time in the possession of a prosperous and extensive commerce.

That your memorialist further states, in giving up his support as a merchant engaged in foreign commerce, that he did an act of essential service, or it would not have been required under the penalties it was; and an act that must force him to leave his native land, if not soon re-

stored to the King's peace, or transgress if he staid; and, exclusive of immediate forfeitures in cases of capture, subject to a criminal prosecution in the end, as the event might be, for aiding and abetting.

Your memorialist, under these circumstances of his case, was obliged to leave America in the year seventeen hundred and seventy-six, and come to England, and thereby, as things have happened, subjected himself to as heavy a grievance as our condition in this life is capable of experiencing; he therefore conceives, on these accounts, that he was as much entitled to a consideration for giving up his support, or a beneficial and extensive commerce, out of which he derived his support, as any other sufferer whatever, and that his not being allowed for the same as a part of his rights, under the report of the commissioners, was oppressive and partial.

And your memorialist, &c.

Copy of memorial to the orphan's court, received from Thomas Aspden, April 1, 1848, *with a request that it may be printed.*

RAWTENSTALL, LANCASHIRE, ENGLAND,
1*st February*, 1848.

Humble petition to the orphan's court of Philadelphia, United States, North America.

We, the undersigned, being relations of Thomas Aspden, of Blockley, near Philadelphia, North America, do hereby humbly express our highest satisfaction in the long and lasting integrity of the said Thomas Aspden, and do also wish him alone to be considered and countenanced as representing our united interests in the suit originally styled "Packer vs. Nixon," now pending in the courts of the United States.

We regret to learn that John Aspden (brother of the said Thomas Aspden) has lately, without our previous knowledge or consent, interfered with, and continued to annoy, the said Thomas Aspden while engaged in prosecuting the said suit in the courts of the United States, and we do hereby express (humbly) our strongest dissatisfaction at such unwarranted interference, and throw ourselves upon the indulgence of the said court, praying that the future interference of the said John Aspden may be viewed as grievous and contrary to our wishes.

her
ESTHER × ASPDEN,
mark.
Mother of the said Thomas Aspden.

ANDREW ASPDEN,
Underbank, near Todmorden, Yorkshire, the only surviving heir of the late John Aspden, father of the said Thomas Aspden.

ABRAHAM ASPDEN,
Second son of the late John Aspden, also executor of his will.

ELIZABETH (COCKCROFT,)
Haslingden, only daughter of Abraham Aspden, of Rawtenstall.
ELIZABETH DYSON,
Sister of Thomas Aspden.
HIRAM TRIPPIER,
Son of Ann Trippier, sister to Thomas Aspden.
GEORGE ASPDEN,
Cousin to Thomas Aspden.
ANN PEEL,
Daughter of Nathaniel Aspden, niece of Thomas Aspden.
JOHN ASHWORTH,
Cousin to Thomas Aspden.
NETHENIEL ASPDEN,
Cousin to Thomas Aspden.
BETTY HURST,
Cousin to Thomas Aspden.
JOHN ASPDEN,
Cousin to Thomas Aspden.

Witness to the mark of Esther Aspden—
JOHN ASHWORTH, of Boothfold, Rossendale, Unitarian minister, executor of the will of the late John Aspden, father of the said Thomas Aspden, and who also joins in the prayer of this petition.

Endorsed: Mr. Thomas Aspden, Blockley, near Philadelphia, America.

(Post mark,) Todmorden, February 1st, 1848.
" Halifax, " "
" Liverpool, February 2d, "
" Boston, March 4th, "

Issues at law.

And now, to wit, this 29th day of April, A. D. 1848, the court orders, that the parties in this case do proceed to a trial at law, at the session of the circuit court of the United States, which will begin, by adjournment, on the twenty-fifth day of September, A. D. 1848, or at such other time as may hereafter be appointed, upon the following issues, viz:

1. Where was the domicil of origin of the testator, Matthias Aspden?
2. Where was the domicil of the said testator at the time of making his said will, to wit, on the 6th of December, 1791?
3. Where was the domicil of the said testator at the time of his death, to wit, on or about the 9th of August, 1824?
4. Where was the domicil of the said testator during the intermediate time, to wit, between the 6th of December, 1791, and the 9th of August, 1824?

And the court further orders, that Thomas H. White, one of the petitioners, for himself, and as representative and on behalf of the

next of kin, be plaintiff at law, in the trial of the said issues, and that John A. Brown, administrator of John Aspden, of London, and Thomas Aspden, administrator of John Aspden, of Lancashire, be defendants at law, in the said trial.

And the court further orders, that in the trial of the said issues, either party, on the said trial, may read in evidence, as if taken for the purposes of said trial, any depositions of witnesses taken before the master, or under commissions in this cause, and any papers duly proved heretofore, or which may be properly authenticated; subject, however, to all legal exceptions that might be taken to the testimony of any of the said witnesses if he were called to the stand; and subject also to exception to the said testimony of any of said witnesses, who may be living at the time of trial, and within the jurisdiction of the court, if notice of such exception be given to the opposite party not less than twenty days before the said trial.

And the court further orders and directs that the said trial at law shall be tried before a special jury, for which the venire facias has already issued, the said jury to be struck before the 25th of May next.

And the court further orders and directs, that within twenty days from this order the parties, plaintiff and defendants in said trial, shall designate, respectively, the counsel, not exceeding three in number on each side, by whom the said trial shall be opened and argued. Jury lists are to be served on said counsel.

And the court doth reserve the consideration of costs, and of all further directions, until said trial shall be had.

And the court further orders and directs, that a printed copy of this order shall, by the clerk of this court, be sent to each of the counsel appearing of record by the report of the master; the cost of which shall be paid from the fund.

Counsel designated to try the issue at law.

Afterwards, to wit, on the eighteenth day of May, in the year aforesaid, at a meeting of the counsel concerned for the next of kin, Benjamin Tilghman, John M. Reed, and Henry D. Gilpin, esqs., were designated as the counsel, by whom the trial shall be opened and argued on behalf of the next of kin.

Afterwards, to wit, on the twentieth day of May aforesaid, at a meeting of the counsel for the defendants in the issue at law, William B. Reed, Henry J. Williams, and Josiah Randall, esqs., were designated as the counsel by whom the trial shall be opened and argued on behalf of the defendants.

Petition of Samuel Jackson to become a party.

Afterwards, to wit, on the twenty-second day of May aforesaid, the petition of Samuel Jackson, M. D., praying to become a party, is presented by his solicitors, Josiah Randall and Thomas A. Budd, esqs.;

which petition, being read and filed, and granted by the court, is in the words and of the tenor following, to wit:

To the honorable the judges of the circuit court of the United States, for the eastern district of Pennsylvania.

The petition of Samuel Jackson, of the city of Philadelphia, M. D., administrator cum testamento annexo of John Aspden, deceased, respectfully showeth:

That John Aspden, late of Lancashire, England, heretofore admitted on his petition, filed of record in this court, to be a party to the above suit, as a claimant under the will of the said Matthias Aspden, deceased, having departed this life, Thomas Aspden, the only executor of the said John Aspden, who had qualified according to the laws of Pennsylvania, was admitted as a party on his petition, presented for that purpose, as more fully appears by the records of this court; that the said Thomas Aspden was removed from the said executorship by the decree of the orphans' court for the county of Philadelphia, made in pursuance of the authority vested in the said court by law, and letters of administration cum testamento annexo to the said John Aspden, deceased, were, by the said court, duly awarded; which, on the thirtieth day of May, A. D. 1848, were granted by the register of the county of Philadelphia to your petitioner, in the form and upon the security directed by the said court, according to the act of assembly of Pennsylvania, in such case made and provided.

Your petitioner being therefore the only person authorized by law to represent the estate of the said John Aspden, deceased, in the said suit, and to receive from the said defendant, Joseph Trotter, any money in his hands, belonging to the estate of the said John Aspden, deceased, prays that he may be admitted on the record as a party to the said suit, and there substituted for the said Thomas Aspden, whose authority as executor has ended; and, finally, that the said fund claimed by the said John Aspden, deceased, in his lifetime, may be decreed to your petitioner, as in justice and equity it appertains, as he verily believes. And your petitioner will ever pray, etc.

Josiah Randall, esq., has leave to withdraw as counsel for Eliza Thompson and others.

Afterwards, to wit, on the same day, on motion, the court grant leave to Josiah Randall, esquire, to withdraw from this case as counsel for the following parties, to wit:

Eliza Thompson, Rebecca Vansciver, Elizabeth Hammett, Obadiah Borton, Mason, Hannah Packer, Samuel B. Hunt, John R. Richards, Jesse P. Barton, Lydia Blackwood, Elinor P. Laconey, Martha Stewart, Samuel Borton, Hannah P. Edwards, Asa Vansciver, Bracilla Carter, Mary Warric, Rhoda Powell, Jeremiah Carter, Bersheba Thompson, Jacob Wolohon, Lewis Waterman, J. M. Schenck, Joseph Marsh, Dr. E. D. Marsh, Elizabeth Packer, Charles Borton,

Ruth P. Maull, Bartholomew Carter, Susan Hampton, Rachel E. Hammell, Ralph Hunt, John Boqua, Elizabeth Newton, Sarah Borton, Rachel E. Day, Elizabeth B. Wady, A. M. Nicholas, Charles E. Edwards, Edward Duffee, Charles B. Packer, Samuel Warric, Samuel P. Cox, Rachel Packer, Hugh C. Cox, John A. Packer, Sarah Carter, Samuel Waterman, James E. Packer, Ruth P. Marsh, and Susannah P. Marsh.

Reference to Master.

Afterwards, to wit, on the twenty-ninth day of May aforesaid, it is ordered by the court here, that the docket entries and record in this case be referred to the master, in order that a correct statement may be made of all papers filed, orders made, and other proceedings in the case, from the commencement to the present time, and that the same be printed under his directions, the expense of the same to be borne by the fund. It is also ordered, that proofs and depositions may be taken by either party, before the master, upon five days' notice to the counsel of the opposite party, to try the issues of the twenty-ninth of April, A. D. 1848.

Petitions of Obed Welden and others.

Afterwards, to wit, on the fifth day of June, A. D. 1848, the petitions of Obed Welden and others; of Roger Hartley and others; of Joseph Ellis, administrator of Ann Ellis, deceased; of Mahlon Doan and Rebecca, his wife; of Joseph Hinchman, administrator, etc.; and of Joseph Scull and others, are presented by their solicitors, respectively; which petitions being read and filed, and granted by the court, are in the words and of the tenor following, to wit:

To the honorable the judges of the circuit court of the United States, for the eastern district of Pennsylvania, in the third circuit, sitting in equity.

The petition of Obed Welden, of the city of Philadelphia, and a citizen of State of Pennsylvania, sole administrator of John Zane, deceased, and of Joseph Ellis and Evan C. Smith, of Camden county, New Jersey, citizens of the State of New Jersey, executors of the last will and testament of Isaac Zane, deceased, respectfully represents, that the said John Zane and Isaac Zane, who, by their petitions and amended petitions, heretofore filed in this suit, claimed to be entitled to have distribution made to them of the fund admitted to be in the hands of the executor of the last will and testament of Matthias Aspden, or part thereof, and were duly admitted as parties to this suit, have since departed this life; the said John Zane, on or about the first day of May, 1846, and the said Isaac Zane, on or about the first day of May, 1843. That on the sixteenth day of May, 1848, letters of administration upon the estate of the said John Zane were granted and issued to your petitioner, Obed Welden, which letters of administration still re-

main in full force. That the said Isaac Zane made his last will and testament, bearing date the 29th day of March, 1843, wherein he appointed your petitioners, Joseph Ellis and Even C. Smith, executors thereof. That on the 4th day of April, 1848, the said will was duly admitted to probate by the surrogate of the said county of Camden, and letters testamentary were granted by the said surrogate to your petitioners, Joseph Ellis and Even C. Smith, as executors of the last will and testament of the said Isaac Zane, deceased, which letters testamentary remain in full force.

That on or about the 18th of August, 1840, Henry Nixon, the original defendant in this suit, who appeared herein as executor of the last will and testament of the said Matthias Aspden, deceased, departed this life, and thereupon letters of administration de bonis non cum testamento annexo were, on the 12th day of May, 1841, duly granted by the register of wills, in and for the city and county of Philadelphia, to Joseph Trotter, of the said city of Philadelphia, which letters of administration still remain in full force and unrevoked.

That on the 10th of September, 1841, Samuel Packer, the original complainant in this suit, exhibited in this court his bill to revive the same against the said Joseph Trotter, administrator as aforesaid. And the said Joseph Trotter, administrator as aforesaid, did, on the 14th day of March, 1848, file his answer to the said bill of revivor.

Wherefore your petitioners pray your honors to be admitted on the record as parties to the said revived suit, for the purposes set forth in the original and amended petition of the said John Zane and Isaac Zane.

JOHN L. NEWBOLD,
B. NEWCOMB,

Solicitors for Obed Welden, administrator of John Zane, and Joseph Ellis and Evan C. Smith, executors of Isaac Zane.

Petition of Roger Hartley and others.

To the honorable the judges of the circuit court of the United States, for the eastern district of Pennsylvania, in the third circuit, sitting in equity.

The petition of Roger Hartley, of Washington county, in the State of Pennsylvania, of Peter Hartley; of the same place, sole executor of the last will and testament of Benjamin Hartley, deceased; of Otha W. Minor and Benjamin F. Black, of Green county, in said State, administrators of James Hartley, deceased, all of said petitioners being citizens of the said State of Pennsylvania; and of John Hartley, of Scioto county, in the State of Ohio, and a citizen of said State of Ohio, respectfully represents, that they are, as they firmly believe, entitled to have distribution made among them as the parties contemplated in and by the last will and testament of Matthias Aspden, deceased, late of the city of Philadelphia; which will is set forth in certain proceedings instituted in this honorable court, consisting of a bill filed by Samuel Packer against Henry Nixon, executor of the said Matthias

Aspden, deceased, and the answer of the said Henry Nixon to the same, the same being filed as No. 1, to April sessions, 1828.

That the said Henry Nixon has since departed this life, and that letters of administration de bonis non cum testamento annexo, upon the estate of the said Matthias Aspden, deceased, were granted to Joseph Trotter, of the city of Philadelphia.

That Samuel Packer, the original complainant in this suit, has exhibited in this court his bill to revive the same against the said Joseph Trotter, administrator as aforesaid; and the said Joseph Trotter, administrator, on the fourteenth of March, 1848, filed his answer to the said bill of revivor.

That your petitioners, Roger Hartley and John Hartley, and the above named Benjamin Hartley, deceased, and James Hartley, deceased, are children of Roger Hartley, the younger; that the said Roger Hartley, the younger, was a son of Rebecca Hartley, the mother of the said Matthias Aspden, by her first husband, Roger Hartley, the elder, deceased; and that your petitioners, Roger Hartley and John Hartley, and the said Benjamin Hartley and James Hartley, were living at the time of the death of the said Matthias Aspden, and were his nephews of the half-blood, and his next of kin.

And your petitioners aver, that the said Matthias Aspden was born in the State of Pennsylvania; that he was domiciled in the city of Philadelphia, in the said State, at the time of making his said will, at the time of his death, and during the period which intervened between the making of his said will and his death.

That the above named Benjamin Hartley departed this life on or about the first day of November, 1829, having first made his last will and testament, bearing date the 22d of October, 1829, wherein he constituted and appointed his son, Peter Hartley, your petitioner, the sole executor thereof. That on the 21st day of November, 1829, the said will was duly admitted to probate by the register of wills, in and for the said county of Washington, and on the same day letters testamentary were granted and issued to your petitioner, Peter Hartley, as sole executor thereof; which said letters still remain in full force and unrevoked.

That the said James Hartley departed this life about the year 1828, and that letters of administration upon his estate were duly granted by the register of wills, in and for said Green county, to your petitioners, Otho W. Minor and Benjamin F. Black; which said letters of administration are in full force and unrevoked.

Your petitioners pray that they may be admitted on record as parties to the said suit, for the purpose of claiming the funds in the hands of the said Joseph Trotter, administrator; and that your honors will be pleased to direct such inquiries to be made, as to their respective claims, as justice may require; and, finally, that the said fund may be decreed to those to whom it may in justice and equity appertain.

And your petitioners will ever pray, &c.

JOHN L. NEWBOLD, *Solicitor for petitioners.*

Petition of Joseph Ellis, administrator of Ann Ellis.

To the honorable the judges of the circuit court of the United States, for the eastern district of Pennsylvania, in the third circuit, sitting in equity.

The petition of Joseph Ellis, of the county of Camden, in the State of New Jersey, and a citizen of said State, the only child of Ann Ellis, deceased, and administrator of her estate, respectfully represents, that the said Ann Ellis, who, by her petition and amended petition heretofore filed in this suit, claimed to be entitled to have distribution made to her of the fund admitted to be in the hands of the executor of the last will and testament of Matthias Aspden, deceased, or part thereof, and was duly admitted as a party to this suit, departed this life on or about the fifteenth day of May, 1841, leaving your petitioner her only child. That on the nineteenth day of May, 1848, letters of administration upon her estate were duly granted and issued to your petitioner by the register of wills, in and for the city and county of Philadelphia, which said letters of administration are in full force.

That on or about the 18th of August, 1840, Henry Nixon, the original defendant in this suit, who appeared herein as executor of the last will and testament of the said Matthias Aspden, deceased, departed this life, and thereupon letters of administration de bonis non cum testamento annexo were, on the 12th day of May, 1841, duly granted by the register of wills, in and for the city and county of Philadelphia, to Joseph Trotter, of the said city of Philadelphia, which letters of administration still remain in full force and unrevoked.

That on the 10th day of September, A. D. 1841, Samuel Packer, the original complainant in this suit, exhibited in this court his bill to revive the same against the said Joseph Trotter, administrator as aforesaid; and the said Joseph Trotter, administrator as aforesaid, did, on the fourteenth day of March, 1848, file his answer to the said bill of revivor.

Wherefore your petitioner prays your honors to be admitted on the record, as a party to the said revived suit, as administrator as aforesaid of the said Ann Ellis, for the purposes set forth in the original and amended petitions of the said Ann Ellis.

JNO. L. NEWBOLD,
Solicitor for Joseph Ellis, administrator of Ann Ellis, deceased.

Petition of Mahlon Doan and Rebecca, his wife.

To the honorable the judges of the circuit court of the United States, for the eastern district of Pennsylvania, in the third circuit, sitting in equity.

The petition of Mahlon Doan and Rebecca, his wife, in right of said Rebecca, of Canada West, aliens, and subjects of the queen of

the united kingdom of Great Britain and Ireland, respectfully represents, that the said Mahlon Doan and Rebecca, his wife, by their petition heretofore filed in this suit, claimed to be entitled to have distribution made to them of the fund admitted to be in the hands of the executor of the last will and testament of Matthias Aspden, deceased, or part thereof, and were duly admitted parties to said suit.

That on or about the 18th of August, 1840, Henry Nixon, the original defendant in this suit, who appeared herein as executor of the last will and testament of the said Matthias Aspden, deceased, departed this life, and thereupon letters of administration de bonis non cum testamento annexo were, on the 12th day of May, 1841, duly granted by the register of wills, in and for the city and county of Philadelphia, to Joseph Trotter, of the said city of Philadelphia, which letters of administration still remain in full force and unrevoked. That on the 10th day of September, A. D. 1841, Samuel Packer, the original complainant in this suit, exhibited in this court his bill to revive the same against the said Joseph Trotter, administrator as aforesaid; and the said Joseph Trotter, administrator as aforesaid, did, on the fourteenth day of March, 1848, file his answer to the said bill of revivor.

Wherefore your petitioners pray your honors to be admitted on the record as parties to the said revived suit, for the purposes set forth in their original petition. **JNO. L. NEWBOLD,**

Solicitor for Mahlon Doan and Rebecca, his wife.

Petition of Joseph Hinchman, administrator, &c.

To the honorable the judges of the circuit court of the United States, in and for the eastern district of Pennsylvania, in the third circuit, sitting in equity.

The petition of Joseph Hinchman, of Delaware township, in the county of Camden, in the State of New Jersey, farmer, surviving administrator of the goods and chattels, rights and credits, which were of James Hinchman, late of the county of Burlington, in the State of New Jersey, who died intestate; and also administrator of the goods and chattels, rights and credits, which were of William Hinchman, late of the county of Gloucester, now Camden county, in the State of New Jersey, aforesaid, who died intestate, respectfully showeth; that your petitioner, as administrator aforesaid, is, as he firmly believes, entitled to have distribution made to him as the party contemplated in and by the last will and testament of Matthias Aspden, deceased, late of the city of Philadelphia, which will is set forth in certain proceedings instituted in this honorable court, consisting of a bill filed by Samuel Packer against Henry Nixon, executor of Matthias Aspden, deceased, and the answer of the said Henry Nixon, the same being filed as No. 1 to April sessions, 1828; that the said Henry Nixon has since departed this life, and letters of administration de bonis non cum testamento annexo upon the estate of the said Matthias Aspden, deceased, were granted to Joseph Trotter; that Samuel Packer, the original complainant in this

suit, has exhibited in this court his bill to revive the same against the said Joseph Trotter, administrator as aforesaid; and the said Joseph Trotter, administrator of the said Matthias Aspden, did, on the 14th day of March, 1848, file his answer to the said bill of revivor.

That the above named James Hinchman and William Hinchman were children of William Hinchman, the elder, and Ann, his wife, late Ann Hartley, which Ann Hartley was the daughter of Rebecca Hartley, the mother of the said Matthias Aspden, by her first husband, Roger Hartley, deceased; and that they, the said James Hinchman and William Hinchman, deceased, sons of the said William Hinchman, the elder, deceased, were, at the time of the death of the said Matthias Aspden, the testator, nephews, of the half-blood of the said Matthias Aspden, and his next of kin.

Your petitioner avers that the said Matthias Aspden, the testator, was born in the State of Pennsylvania, and that he was domiciled in the State of Pennsylvania at the time of making his said will, and also at the time of his death, and also during the whole period which intervened between the making of the said will and his death.

That the said James Hinchman died intestate on or about the month of February, A. D. 1825, after the death of the said Matthias Aspden, the testator, and letters of administration upon his estate were duly granted and issued by the surrogate of the said county of Burlington, in the State of New Jersey, on the 1st day of March, 1825, unto your petitioner, the said Joseph Hinchman, of the county of Gloucester, in the State of New Jersey aforesaid, and Thomas Hollinshead, of the county of Burlington, in the State of New Jersey aforesaid, since deceased, and whom your petitioner hath survived; which said letters of administration are in full force and unrevoked.

That the said William Hinchman, the son of William Hinchman, the elder, deceased, died intestate on or about the 1st day of February, A. D. 1826, after the death of the said Matthias Aspden, the testator; and letters of administration upon his estate were duly granted and issued by the surrogate of the county of Gloucester, in the State of New Jersey aforesaid, on the 18th day of February, A. D. 1826, unto your petitioner, the said Joseph Hinchman; which said letters of administration are in full force and unrevoked.

Your petitioner prays that he may be admitted as a party to the said suit, as administrator aforesaid, for the purpose of claiming the funds in the hands of the said Joseph Trotter, administrator as aforesaid; and that your honors will be pleased to direct such inquiries to be made as to his claims as justice may require; and finally, that the said fund may be decreed tothose to whom it may in justice and equity appertain.

And your petitioner will ever pray, &c.

JOSEPH HINCHMAN,
Administrator of James Hinchman, deceased, and also administrator of William Hinchman, deceased.

B. NEWCOMB,
Solicitor for petitioner.

Petition of Joseph Scull and others.

To the honorable the judges of the circuit court of the United States, in and for the eastern district of Pennsylvania, in the third circuit, sitting in equity.

The petition of Joseph Scull, of Montgomery county, in the State of Ohio, John H. Scull, of Clearmount county, in the State of Ohio aforesaid, and Thomas K. Stiles, of Fayette county, in the State of Indiana, in right of his wife, Rebecca, late Rebecca Scull, respectfully showeth: That your petitioners are, as they firmly believe, entitled to have distribution made to them as the parties contemplated in and by the last will and testament of Matthias Aspden, deceased, late of the city of Philadelphia; which will is set forth in certain proceedings instituted in this honorable court, consisting of a bill filed by Samuel Packer against Henry Nixon, executor of Matthias Aspden, deceased, and the answer of the said Henry Nixon, the same being filed as No. 1 to April sessions, 1828. That the said Henry Nixon has since departed this life, and letters of administration de bonis non cum testamento annexo upon the estate of the said Matthias Aspden, deceased, were granted to Joseph Trotter. That Samuel Packer, the original complainant in this suit, has exhibited in this court his bill to revive the same against the said Joseph Trotter, administrator as aforesaid; and the said Joseph Trotter, administrator of the said Matthias Aspden, did, on the 14th day of March, 1848, file his answer to the said bill of revivor.

That the above named Joseph Scull, John H. Scull, and Rebecca Stiles, now wife of the said Thomas K. Stiles, are children of John Scull and Ann, his wife, late Ann Hinchman, which Ann, late Ann Hinchman, was the daughter of William Hinchman and Ann, his wife, late Ann Hartley, which Ann Hartley was the daughter of Rebecca Hartley, the mother of the said Matthias Aspden, by her first husband, Roger Hartley, deceased; and that they, the said Joseph Scull, John H. Scull, and Rebecca Stiles, late Rebecca Scull, are the grand nephews and grand niece of the half-blood of the said Matthias Aspden, the testator, deceased, and his next of kin.

Your petitioners aver, that the said Matthias Aspden, the testator, was born in the State of Pennsylvania, and that he was domiciled in the said State of Pennsylvania at the time of making his said will, and also at the time of his death, and also during the whole period which intervened between the making of the said will and his death.

Your petitioners pray that they may be admitted as parties to the said suit, for the purpose of claiming the funds in the hands of the said Joseph Trotter, administrator as aforesaid, and that your honors will be pleased to direct such inquiries to be made as to their claim, as justice

may require; and finally that the said fund may be decreed to those to whom it may in justice and equity appertain.

And your petitioners will ever pray, &c.

JOSEPH SCULL,
JOHN H. SCULL,
THOMAS K. STILES,
By their attorney in fact, JOSEPH HINCHMAN,
B. NEWCOMB,
Solicitors for petitioners.

Rule for commission to London.

Afterwards, to wit, on the eighth day of July, 1848, on motion of Josiah Randall, esquire, on behalf of Samuel Jackson, administrator cum testamento annexo of John Aspden, of Lancashire, England, deceased, a rule is granted for a commission to London, England.

Afterwards, to wit, on the twenty-first day of July aforesaid, (interrogatories and cross interrogatories having been filed,) on motion of T. A. Budd, esq., it is ordered, that a commission to London do issue.

Report of the master under the order of 29th May, 1848, with the deposition of Samuel Nicholson.

Afterwards, to wit, on the twenty-third day of August, 1848, the report of the master, under the order of the twenty-ninth day of May last, with the deposition of Samuel Nicholson, is presented; which report and deposition are in the words and of the tenor following, to wit:

To the honorable the judges of the circuit court of the United States, in and for the eastern district of Pennsylvania, I respectfully report:

That under the authority of the order made in this case on the twenty-ninth day of May last, having been called upon by the counsel representing the next of kin in the issue depending in this case, to take depositions of witnesses from New Jersey and elsewhere, on Monday, the twenty-first day of August, 1848, at eleven o'clock, a. m., of that day, I gave five days' notice to the counsel of the opposite party to attend at my office, No. 150, Walnut street, between fifth and sixth streets, in the city of Philadelphia, at that time for the said purpose.

And on the said day and hour I was attended by Benjamin Tilghman and John M. Reed, esqs., counsel for the said next of kin, and by Thomas A. Budd, esquire, on behalf of the defendants in the said issue.

And a witness named Samuel Nicholson, of Haddonfield, in the State of New Jersey, was examined by the said counsel of the next of kin, and cross examined by the said counsel for the defendants in the issue, and his deposition, reduced to writing by me, is hereto annexed, marked A.

And the said Samuel Nicholson produced at my said office, upon the said examination, two manuscript books, purporting to be, and affirmed by him to be, the original minutes of the monthly meeting of

Friends at Haddonfield; from which said books the passages contained in the said deposition are truly copied.

All which is respectfully submitted.

August 23, 1848. T. I. WHARTON.

In the circuit court of the United States, in and for the eastern district of Pennsylvania, in the third circuit, of April sessions, 1828.—No. 1.

SAMUEL PACKER, complainant, against HENRY NIXON, executor of the will of Matthias Aspden, deceased, defendant. } In equity.

Depositions of witnesses produced at the office of Thomas I. Wharton, a master of the said court, No. 150 Walnut street, between Delaware Fifth and Sixth streets, in the city of Philadelphia, on Monday, the twenty-first day of August, A. D. 1848, at eleven o'clock in the morning of that day.

SAMUEL NICHOLSON, of Haddonfield, in the State of New Jersey, farmer, aged about fifty-five years, a witness produced on the part of certain of the next of kin of Matthias Aspden, deceased, being duly affirmed, deposes as follows:

I am a member of the Society of Friends, of Haddonfield, New Jersey; Haddonfield monthly meeting is the name of it. I am an elder of the same, and am appointed by the monthly meeting to take charge of their records. I have those records in my possession. The book now produced by me is the original record book of the minutes of Haddonfield monthly meeting, between the dates of the tenth of the eleventh month, seventeen hundred and thirty-one, and the fourteenth of the twelfth month, seventeen hundred and sixty-one. Thomas Redman, the person who formerly had the records, deceased about two years ago. They were then put in my care by the monthly meeting. Among the entries in this book are the following, to wit:

At page 215 is entered as follows, under date of twelfth month thirteenth, 1748–'9.

"Testifica." to be drawn against R. Hartley.

"The women request that a testification be drawn against Rebecca Hartley, for having an illegitimate child; therefore Joseph Kaighin is appointed to draw one accordingly."

At page 216, under date of thirteenth of first month, 1748–'9.

"R. Hartley's testification.

"Joseph Kaighin produced a testification against Rebeck'h Hartley for having an illegitimate child, which was approved and signed by the clerk, and sent to the women for their approbation: the women approved of the same, which was appointed to be read publicly by Joseph Cooper."

At page 218, under date of tenth of second month, 1749.

"R. Hartley's misconduct.

"Jos. Cooper acquainted this meeting that he has had an account by Josiah Albertson, that the late Rebeckah Hartley was married before her last child was

born, therefore hath not read the testific'n appointed to be read publicly; therefore Josiah Albertson and Jos. Kaighin are desired to inquire thereinto, and, if true, prepare a testification accordingly."

At page 220, under date of eighth of third month, 1749.

"R. Hartley's affair.

"Josiah Albertson acquainted this meeting that himself and Jos. Kaighin had made inquiry concerning the report that she that was the widow Hartley was marry'd before her last child was born, but was not inform'd of ye certainty thereof, tho' they had asked herself the question; therefore this meeting appoints Josiah Albertson and John Tomlinson to serve her with a copy of the testification, and acquaint her with ye privilege of a appeal, it being omitted before, and she is desired to make her answer to our next meeting, and the clerk to give them a copy for that service.

At page 222, under date of twelfth of fourth month, 1749.

"R. Hartley, &c.

"Josiah Albertson and John Tomlinson reported that they had delivered to she that was Rebeckah Hartley ye copy of the testification against her. She did not deny the charge, but said she would give Frds. satisfaction if she could."

At page 223, under the same date.

"R. Aspden's acknowledgement to be read, &c.

"Rebeckah Aspden produced an acknowledgment for takin unchaste liberty before marriage with him that is now her husband, which was accepted; and appointed Jos. Cooper to read it publickly, after a first day meeting, some time before ye next monthly meeting."

At the same page, under date of tenth of fifth month, 1749.

"Jos. Cooper reported yt he had read ye acknowledg't of Rebeckah Aspden acording to appointment."

At page 351, under date of eleventh of tenth month, 1756.

"Three women's certificates requested."

The weomen, Frds., by Thomas Redman, request that certificates might be drawn in order to recommend Rebecca Aspden to Frds. of Philadelphia monthly meeting, Mary Newbold to that of Chesterfield, and Lydia Fawcet to Salem. Therefore, the following Frds. were appointed to sd. service: Isaac Andrew that to Philadelphia and Chesterfield, and David Cooper that to Salem.

At the same page, under date of the eighth of the eleventh month, 1756.

"Certificates for R. Aspden, M. Newbold, and L. Fawcett, sign'd."

"Isaac Andrews (according to appointment) produced certificats for Rebeckah Aspden and Mary Newbold, as did David Cooper on behalf of Lydia Fawcet, which were all read, approved, and signed by ye clerk, and sent to ye weomen for their signing."

The witness proceeds:

I am sufficiently acquainted with the discipline and usages of the society of Friends to testify that the certificate spoken of in the last minutes, granted to Rebecca Aspden, was such as is usually taken by a member in unity with Friends on removing from one monthly meet-

ing of Friends to another. I produce here another book, which is entitled "minutes of women Ffriends of the monthly meeting, held at sundry places as by adjournments, from the year 1705," beginning with a minute of a monthly meeting of women friends held at Newton, the fifteenth of the seventh month, 1705, and ending with the minute of a monthly meeting of women Friends held at Haddonfield, the ninth of the tenth month, 1769. This is one of the books belonging to the monthly meeting of women Friends at Haddonfield, in New Jersey, received by me from Sarah Nicholson, who, I expect, has the care of those books. I sent for this book this morning to be brought here to the master's office to be put in evidence, and received it from Sarah Nicholson. I know that she is one of the elders of the meeting. Sarah Nicholson is my step-mother. This book being the minutes of women Friends, is not usually or officially in my possession. In this book, under date of the thirteenth of twelfth month, 1748–'9, is the following entry: "Mtg. being call'd over hnd. fld. overseers report, had visited Rebeca Hartley on acct. of having an illigetamate child, and she leaves Frds. to proceed as they please. So Frds. sent to ye men Frds. requesting e.m to proceed accord'g to ye nature of ye case. No other business this m. g. Adjourns to ye usual time and place."

Under date of the twelfth of fourth month, 1749, is the following entry:

"Rebecca Aspden brought a paper condemning her unchaste conversation with him yt. is now her husband, wch. was sent to the men Frds., who ord'd it to be read publickly. No other matter offering, this mtg. adjourns as usual."

Under date of tenth of fifth month, 1749:

"Reported that the aforesaid paper of Rebecca Aspden was publickly read."

Under date of eleventh of tenth month, 1756:

"Application being made for a certificate to recommend Mary Newbould to Frds. of Chesterfield, Friends appointed to make the usual inquiries are Mary Thorn and Eliza. Hillman, and to give in their acct. to ye Frd. apptd. for yt purpose. Application was also made for one to recommend Rebecca Aspdine to Frds. of Phila. Frds. aptd. to make ye usual inquiries are My. Thorn and My. Champion, to make report to ye Frd. aptd. to draw it."

Under date of 8th of 11th month, 1756:

"Certificate being prepar'd, Rebecca Aspinde, Lydia Forset, and Mary Newbould was read and signd."

Cross examined by Thomas A. Budd, esquire, who appears on behalf of the defendants in the issue under exception to the evidence, both oral and written:

There is a clerk to each of the monthly meetings at Haddonfield, men and women. The clerk keeps the records of the meetings until the books are full, and then (at Haddonfield) they are put in charge of a person appointed by the meeting for safekeeping. I have the deeds of the property, and a variety of other papers. The certificates referred

to in the minutes must have gone into the hands of the persons for whom they were prepared. The testifications are delivered to the persons testified against. Reports of committees are generally made orally, not written. Copies of testifications are now recorded on the minutes. I do not know how it was at that time. There appears to have been different clerks of the meeting during the period comprised in these books. I do not know the handwriting of any of them. I think Thomas Redman had the minutes of the men Friends in his possession about three years. I received them from the widow [of] Thomas Redman. The book has not been inspected by the meeting, or by any committee, since it has been in my possession. I have a catalogue of the books put in my possession by the meeting, and I am certain that this (the minutes of the men Friends) is one of them. I inspected some of the books when I received them, and this is one of those I inspected. I recognise this book from having perused some of the contents. Sometimes certificates are sent after members who have left; at other times certificates are obtained before they go, by request of the member. I have no knowledge of any other minutes, or of any documents relating to Rebecca Hartley or Matthias Aspden, excepting what have been stated, although there may be, as I have not examined thoroughly. The present clerk of the men's meeting is Amos Evans; of the women's meeting Beulah H. Nicholson.

Both these books are full.

Upon reflection, I cannot speak certainly of testifications being recorded now in the minutes.

SAML. NICHOLSON.

Deposition taken, reduced to writing, and by the witness subscribed and affirmed to, this twenty-first day of August, 1848, before me,

T. I. WHARTON, *Master*.

Rule for commission to Blackburn, Lancashire, England.

Afterwards, to wit, on the twenty-eighth day of August, 1848, a rule is granted on behalf of the parties, defendants in the issue, and of Samuel Jackson, administrator cum testamento annexo of John Aspden, deceased, for a commission to Blackburn, Lancashire, England.

Afterwards, to wit, on the ninth day of September, 1848, interrogatories and cross interrogatories having been filed, on motion of T. A. Budd, esq., it is ordered by the court that a commission to Blackburn, Lancashire, England, do issue.

Exceptions to the report of the master, under the order of the 2d October, 1847.

Afterwards, to wit, on the thirteenth day of September, aforesaid, James M. Broom, esquire, by his solicitor, William Rawle, esquire, excepts to the report of the master, because he reports that the counsel of the representatives of the estate of John Aspden, of Lancashire, are

John Sergeant and William Rawle; whereas, it distinctly appeared in evidence, before the master, that the counsel of the representatives of the estate of John Aspden aforesaid, are James M. Broom, John Sergeant, and William Rawle.

Commission to London.

Afterwards, to wit, on the fifteenth day of September aforesaid, the commission to London, issued on the twenty-first day of July last, is presented; which commission, being read and filed, is in the words and of the terms following, to wit:

In the circuit court of the United States, for the eastern district of Pennsylvania, in the third circuit.

SAMUEL PACKER vs. JOSEPH TROTTER, administrator de bonis non cum testamento annexo of Matthias Aspden, deceased.	April sessions, No. 1, 1828, in equity.

The President of the United States, to Alfred King, of London, Richard Smith, esq., 67 Chancery Lane, London, John Olding, esq., Lombard street, London, F. A. Grant, esq., King's Road, Gray's Inn, London, or either of them, commissioners named by and on behalf of Samuel Jackson, administrator C. T. A. of John Aspden, deceased, and to the same as above named, or either of them, commissioners named by and on behalf of Joseph Lippencott and others; also, to John Todhunter, esq., No. 31 Eastcheap, or No. 44 Tavistock square, London, and William Straker, esq., No. 3 Adelaide street, West Strand, London, or either of them, commissioners named by and on behalf of certain of the next of kin, claimants:

Know ye, that, in confidence of your prudence and integrity, we have given unto you, and by these presence do give unto you, or any two or more of you, being one or more of each nomination, full power or authority, in pursuance of a rule lately made in the circuit court of the United States, in and for the eastern district of Pennsylvania, in the third circuit, in a certain action in equity therein depending, wherein the said Samuel Packer is complainant, and the said Joseph Trotter, administrator de bonis non cum testamento annexo of Matthias Aspden, deceased, is respondent, to call before you, at a certain day and place, by you for that purpose to be appointed, all and every person and persons who may be named to you by the said complainant as witnesses in the said action, and then and there to examine them, on their respective oaths and affirmations, on certain interrogatories hereunto annexed, touching the premises, and to reduce their testimony to writing; and when you shall have so done, you are to send the same to the said circuit court, closed up, and under your seals, plainly and distinctly set, together with this writ.

Witness the honorable Roger B. Taney, chief justice of the supreme court of the United States, at Philadelphia, this twenty-first
[L. S.] day of July, A. D. 1848, and in the seventy-third year of the independence of the said United States.

GEORGE PLITT,
Clerk circuit court.
Pro J. BURCHARD.

[Endorsed.]

The execution of his commission appears in a certain schedule hereunto annexed.

ALFRED KING,
JOHN TODHUNTER,
WILL'M STRAKER,
Commissioners.

In the circuit court of the United States, for the eastern district of Pennsylvania, April sessions, 1828.

SAMUEL PACKER
vs.
JOSEPH TROTTER, administrator de bonis non cum testamento annexo of Matthias Aspden, deceased. } No. 1. In equity.

Interrogatories to be administered to witnesses to be produced, sworn, or affirmed, and examined on behalf of Samuel Jackson, administrator cum testamento annexo of John Aspden, deceased, late of Lancashire, England, petitioner and claimant in the above cause, under a commission issued in the said cause on the part of the said claimant.

First. Do you know the parties, complainant and defendant, in the title of these interrogatories named, or either, and which of them, and how long have you known them, or either of them?

Second. Did you know Matthias Aspden, the testator above named? If yea, state when, where, and how long did you know him.

Third. Do you know where the domicil of the said Matthias Aspden was on the sixth day of December, A. D. 1791, on or about the ninth day of August, A. D. 1824, and in the intermediate time between the said sixth day of December, A. D. 1791, and the time of his death, on the ninth day of August, A. D. 1824? If yea, state the same fully, and also state how you acquired your knowledge of his domicil. Annex any papers, letters, or other documents in your possession, which contain information relating to the said question of domicil.

Fourth. Do you know where the said Matthias Aspden lived from the year 1777 to the time of his death, and where he died? If yea, state the same fully.

Lastly. Do you know, or can you set forth, any other matter or

thing which may be a benefit or advantage to the parties at issue in this cause, or either of them, or that may be material to the subject of this your examination, or the matters in question in this cause? If yea, set forth the same fully and at large in your answer.

Alfred King, esq., of London; Richard Smith, esq., 67 Chancery lane, London; John Olding, esq., Lombard street, London; F. A. Grant, esq., King's road, Gray's Inn, London, or either of them, are named as commissioners on the part of Samuel Jackson, administrator C. T. A. of John Aspden, deceased.

J. RANDELL,
THOMAS A. BUDD,
Solicitors for Samuel Jackson.

1848. July 14.—A true copy from the original filed.

J. BURCHARD,
For Clerk of circuit court.

April sessions, 1828. In equity.

SAMUEL PACKER
vs.
JOSEPH TROTTER, administrator de bonis non cum testamento annexo of Matthias Aspden, deceased. } No. 1.

Cross interrogatories to be administered to witnesses examined on behalf of Samuel Jackson, administrator cum testamento annexo of John Aspden, deceased, petitioner and claimant in the above case.

Interrogatory 1. If you answer the first interrogatory affirmatively, generally, or partially, state where you have known the complainant or defendant, and where you lived, and where they lived at the time of your said knowledge of them, or either of them.

Interrogatory 2. If you answer the second interrogative affirmatively, state where the said Matthias Aspden lived at the time you first knew him; when it was; how long he lived there, and what changes he made in his residence during your continuance of knowledge. Also describe his person, age, and business, and the time and place of his death, and your own age at this time.

Interrogatory 3. If you answer the third interrogatory affirmatively, either in the whole or in part, state what you mean by domicil, and how and from whom you acquired your knowledge of person, places, and dates, referred to in your answer to the third interrogatory in chief. State minutely.

Interrogatory 4. If you answer the fourth interrogatory in chief affirmatively, state the sources and particulars of your knowledge; and also state whether you have any written memoranda of the circumstances to which your answer relates.

Interrogatory 5. Are you in any way related to or connected with the said Matthias Aspden; or were you in the habit of business or other intercourse with him? If yea, state what is your relationship or connexion, and what your business or other intercourse; and also state when your said intercourse commenced, and when it terminated; and if you were in correspondence with him, append to your answer any letters written by him, now in your possession.

DAVID PAUL BROWN,
Solicitor for Joseph Lippencottt, Leah Prickett, Martha Cole, and others, petitioners.

Commissioners named on the part of Lippencott and others, the above named petitioners, the same that are mentioned for S. Jackson, administrator.

1848, July 14th. A true copy from the original filed.

J. BURCHARD,
For clerk of circuit court.

SAMUEL PACKER
vs.
JOSEPH TROTTER, administrator de bonis non cum testamento annexo of Matthias Aspden, deceased.

Circuit court of the United States, for the eastern district of Pennsylvania, April sessions, 1828. No. 1, in equity.

Cross interrogatories to be administered to witnesses to be produced, sworn, or affirmed, and examined on behalf of Samuel Jackson, administrator cum testamento annexo of John Aspden, deceased, late of Lancashire, England, petitioner and claimant in the above case, under a commission issued in the said cause, on the part of the said claimant.

First. If you answer any interrogatory in chief, state your age, occupation, and residence; and further, whether you are any relation, either by consanguinity or affinity, to the said Matthias Aspden, or, to your knowledge, have you any relations that are so connected with him; and if so, name them.

Second. Who introduced you to the knowledge or acquaintance of the said Matthias Aspden; had you any business transactions with him? If so, state their nature, and when they took place.

Third. If you answer the third interrogatory in chief, state, in your own language, what you mean by the word "domicil;" if you annex or refer to any papers, letters, or other documents, state particularly from whom, when, where, and by what authority, you became possessed of each such paper, letter, or document; have you any other papers, letters, or documents belonging to the said Matthias Aspden? If so, annex them, and state particularly from whom, when, where, and by what authority you became possessed of each.

Fourth. If you profess to give any declaration or conversation of the said Matthias Aspden, state particularly when and where it took place, and who was present, and where the person or persons so present are now to be found, or where to be found at your last knowledge of either of them.

Fifth. Have you any interest, direct or indirect, in the decision of this cause, or in the estate of Matthias Aspden, deceased? If so, state particularly in what manner.

John Todhunter, esq., No. 31 Eastcheap, or No. 44 Tavistock square, London, and William Straker, esq., No. 3 Adelaide street, West Strand, London, or either of them, are named as commissioners on the part of certain of the next of kin, claimants represented by us.

BENJ. TILGHMAN,
JNO. L. NEWBOLD.

July 5th, 1848.

1848, July 20. A true copy from the original filed.

J. BURCHARD,
For clerk of circuit court.

Circuit court, April session, 1828.

PACKER
vs.
NIXON. } In equity.

Commission to London, returned, opened in open court, and filed.—Filed 15th September, 1848.

Depositions of witnesses produced, sworn, and examined on the twenty-fifth day of August, in the year of our Lord one thousand eight hundred and forty-eight, at the chambers of Alfred King, in No. 2 Paper buildings, Inner Temple, in the city of London, in England, esquire, by virtue of a commission issuing from the circuit court of the United States, for the eastern district of Pennsylvania, in the third circuit, to us, Alfred King, John Todhunter, and William Straker, and others, directed for the examination of witnesses in a certain cause depending in the said court, wherein Samuel Packer is plaintiff, and Joseph Trotter, administrator de bonis non cum testamento annexo of Matthias Aspden, is defendant.

I, James Davis, of No. 44 Ampthill square, Regent's Park, in the county of Middlesex, surgeon, aged fifty-six years, or thereabouts, being produced, sworn, and examined on behalf of the plaintiff, depose as follows:

To the first interrogatory on behalf of Samuel Jackson, administrator cum testamento annexo of John Aspden, deceased, late of Lancashire, England, I answer as follows: I do not know the parties, complainant and defendant, in the title of these interrogatories named, nor either of them.

To the second interrogatory on behalf of the said Samuel Jackson I answer as follows: I did know Matthias Aspden, the testator above

named, from about the year one thousand eight hundred and twenty-one, or one thousand eight hundred and twenty-two. He was then residing at No. 14 or 15 King street, Holborn, in the county of Middlesex, England; and I knew him from that time up to his death.

To the third interrogatory on behalf of the said Samuel Jackson I answer as follows: I do not know where the domicil of the said Matthias Aspden was on the sixth day of December, in the year of our Lord one thousand seven hundred and ninety-one. I do know his domicil on or about the ninth day of August, in the year of our Lord one thousand eight hundred and twenty-four; but I do not know his domicil in the intermediate time between the said sixth day of December, in the year of our Lord one thousand seven hundred and ninety-one and the said year one thousand eight hundred and twenty-one, or one thousand eight hundred and twenty-two; but I do know his domicil at the time of his death, on the ninth day of August, in the year of our Lord one thousand eight hundred and twenty-four. I acquired my knowledge of his domicil from attending him as his medical man from the year one thousand eight hundred and twenty-one, or one thousand eight hundred and twenty-two, up to the time of his death, in August, one thousand eight hundred and twenty-four, during all which period he was residing at No. 14 or 15 King street, Holborn, as aforesaid, with the exception of an interval of a few weeks, when I believe he went either to France or Spain, but returned again to England, where he died. Another thing by which I acquired my knowledge of his domicil was that he wished to be received into my family, as he wanted society, and it was difficult to get into society in this country. I have no papers, letters, or other documents in my possession which contain information relating to the said question of domicil.

To the fourth interrogatory on behalf of the said Samuel Jackson I answer as follows: I do not know where the said Matthias Aspden lived from the year one thousand seven hundred and seventy-seven up to the said year one thousand eight hundred and twenty-one, or one thousand eight hundred and twenty-two; but I do know that the said Matthias Aspden lived from the year one thousand eight hundred and twenty-one, or one thousand eight hundred and twenty-two, at No. 14 or 15 King street, Holborn, as aforesaid, up to the time of his death, (with the exception of the interval mentioned in my answer to the last interrogatory,) and that the said Matthias Aspden died at No. 14 or 15 King street, in Holborn, as aforesaid.

To the last interrogatory on behalf of the said Samuel Jackson I depose as follows: I do not know, nor can I set forth, any other matter or thing which may be a benefit or advantage to the parties at issue in this cause, or either of them, or that may be material to the subject of this my examination, or the matters in question in this cause.

JAMES DAVIS.

ALFRED KING,
JOHN TODHUNTER,
WILLIAM STRAKER.

To the first cross interrogatory filed on behalf of Joseph Lippencott, Leah Prickett, Martha Cole, and others, petitioners, I answer as follows: I never knew the complainant or the defendant, nor where they lived.

To the second cross interrogatory on behalf of the said Joseph Lippencott, Leah Prickett, Martha Cole, and others, petitioners, I answer as follows: The said Matthias Aspden lived at the time I first knew him at No. 14 or 15 King street, Holborn. This was in the year one thousand eight hundred and twenty-one, or one thousand eight hundred and twenty-two; and he lived there from that time up to his death, (with the exception of the interval mentioned in my answer to the third interrogatory in chief,) and made no change whatever in his residence during the continuance of my knowledge. The said Matthias Aspden was a tall and thin person, with one eye, of the age of about seventy-six or seventy-eight, and his business was that of a merchant. He died on or about the ninth day of August, one thousand eight hundred and twenty-four, at No. 14 or 15 King street, Holborn, aforesaid. My own age, at the time of his death, was thirty-two years, or thereabouts.

To the third cross interrogatory on behalf of the said Joseph Lippencott, Leah Prickett, Martha Cole, and others, petitioners, I answer as follows: I mean by domicil the residence in this country, and my not having ever heard him express an intention to reside from this country. I have acquired my knowledge of person, places, and dates, referred to in my answer to the third interrogatory in chief, entirely from my own observation.

To the fourth cross interrogatory on behalf of the said Joseph Lippencott, Leah Prickett, Martha Cole, and others, petitioners, I answer as follows: The source and particulars of my knowledge arose entirely from my own observation, and I have no written memoranda of the circumstances to which my answer relates.

To the fifth cross interrogatory on behalf of the said Joseph Lippencott, Leah Prickett, Martha Cole, and others, petitioners, I answer as follows: I am not in any way related to, or connected with, the said Matthias Aspden. I was in the constant habit of intercourse with him as his medical man. Such intercourse commenced in the year one thousand eight hundred and twenty-one, or one thousand eight hundred and twenty-two, and terminated with his death on or about the ninth of August, one thousand eight hundred and twenty-four. I was never in the habit of corresponding with him by letter, and I have no letters written by him in my possession. JAMES DAVIS.

ALFRED KING,
JOHN TODHUNTER,
WILLM. STRAKER.

To the first cross interrogatory filed on the part of certain of the next of kin, claimants, I answer as follows: I am fifty-six years of age; my occupation is that of a surgeon, and my residence is No. 44 Amp-

thill square, Regent's park, in the county of Middlesex, England. I am no relation, either by consanguinity or affinity, to the said Matthias Aspden, nor to my knowledge have I any relations that are so connected with him.

To the second cross interrogatory filed on the part of certain of the next of kin, claimants, I answer as follows: I was introduced to the knowledge or acquaintance of the said Matthias Aspden by Mrs. Nunn, the housekeeper, at No. 14 or 15 King street, Holborn, aforesaid. I had no business transactions whatever with him beyond my attendance upon him as a medical man.

To the third cross interrogatory filed on the part of certain of the next of kin, claimants, I answer as follows: I mean by domicil, the residence of the said Matthias Aspden in this country, and my not having ever heard him express an intention to reside from this country. I do not annex or refer to any paper, letter, or other document, nor have I any letter or document belonging to the said Matthias Aspden.

To the fourth cross interrogatory filed on the part of certain of the next of kin, claimants, I answer as follows: I have not given any declaration or conversation of the said Matthias Aspden, and I never had any conversation with him, except on occasions when the said Matthias Aspden and myself were the only persons present, except that upon some occasions I have had conversations with the said Matthias Aspden in the presence of the said Mrs. Nunn and her son Mr. Gruby, who were then both residing in the same house; but I believe the said Mrs. Nunn is since dead, and I do not know where the said Mr. Gruby is now to be found.

To the fifth cross interrogatory filed on the part of certain of the next of kin, claimants, I answer as follows: I have no interest, direct or indirect, in the decision of this cause, or in the estate of Matthias Aspden, deceased. JAMES DAVIS.

ALFRED KING,
JOHN TODHUNTER,
WILLM. STRAKER.

The examination of witnesses, on this twenty-fifth day of August, one thousand eight hundred and forty-eight, was commenced at four o'clock in the afternoon, and was prosecuted without intermission until half past seven o'clock in the afternoon, at which time we had concluded the examination in chief of James Davis, and also his cross examination on both sets of cross interrogatories. We therefore adjourn the further execution of this commission until Monday, the twenty-eighth day of August, one thousand eight hundred and forty-eight, at four o'clock in the afternoon, to be then further prosecuted at this place.

ALFRED KING,
JOHN TODHUNTER,
WILLM. STRAKER.

Twenty-eighth day of August, one thousand eight hundred and forty-eight, four o'clock, p. m. At the chambers of Alfred King, No.

2 Paper buildings, Inner Temple, in the city of London. The further execution of this commission was resumed at this time.

I, James Gruby, of Blackheath hill, in the county of Kent, grocer, aged fifty-three years, or thereabouts, being produced, sworn, and examined on behalf of the plaintiff, depose as follows:

To the first interrogatory on behalf of Samuel Jackson, administrator cum testamento annexo of John Aspden, deceased, late of Lancashire, England, I answer as follows: I do not know the parties complainant and defendant in the title of these interrogatories named, nor either of them.

To the second interrogatory on behalf of the said Samuel Jackson I answer as follows: I did know Matthias Aspden, the testator above named, from about the year one thousand eight hundred and eighteen. He was then residing at No. 14 King street, Holborn, in the county of Middlesex, England, and I knew him from that time up to his death.

To the third interrogatory on behalf of the said Samuel Jackson I answer as follows: I do not know where the domicil of the said Matthias Aspden was on the sixth day of December, in the year of our Lord one thousand seven hundred and ninety-one. I did know his domicil on or about the ninth day of August, in the year of our Lord one thousand eight hundred and twenty-four; but I do not know his domicil in the intermediate time, between the said sixth day of December, in the year of our Lord one thousand seven hundred and ninety-one, and the said year one thousand eight hundred and eighteen; but I do know his domicil from the said year one thousand eight hundred and eighteen, up to the time of his death on the ninth day of August, in the year of our Lord one thousand eight hundred and twenty-four. I acquired my knowledge of his domicil from living in the same house with him, he being a tenant of my mother, who was Mrs. Nunn, and who was the leasehold owner of the said house, No. 14 King street, Holborn, aforesaid. I have no papers, letters, or other documents in my possession which contain any information relating to the said question of domicil.

To the fourth interrogatory on behalf of the said Samuel Jackson I answer as follows: I do not know where the said Matthias Aspden lived from the year one thousand seven hundred and seventy-seven up to the said year one thousand eight hundred and eighteen; but I do know that the said Matthias Aspden lived, from the said year one thousand eight hundred and eighteen, at No. 14 King street, Holborn, as aforesaid, up to the time of his death, with the exception of occasional intervals of from four to six weeks, when the said Matthias Aspden used to go to Bath, in the county of Somerset, England, and once to France, for about the same period; and that the said Matthias Aspden died at No. 14 King street, Holborn, as aforesaid.

To the last interrogatory on behalf of the said Samuel Jackson I depose as follows: I do not know, nor can I set forth, any other matter or thing which may be a benefit or advantage to the parties at issue in

this cause, or either of them, or that may be material to the subject of this my examination, or the matters in question in this cause.

JAMES GRUBY.

ALFRED KING,
JOHN TODHUNTER,
WILLM. STRAKER.

To the first cross interrogatory filed on behalf of Joseph Lippencott, Leah Prickett, Martha Cole, and others, petitioners, I answer as follows: I never knew the complainant or defendant, nor where they lived.

To the second cross interrogatory on behalf of the said Joseph Lippencott, Leah Prickett, Martha Cole, and others, petitioners, I answer as follows: The said Matthias Aspden lived, at the time I first knew him, at No. 14 King street, Holborn, aforesaid. This was in the year one thousand eight hundred and eighteen; and he lived there from that time up to his death, (with the exception of the interval mentioned in my answer to the third interrogatory in chief,) and made no change whatever in his residence during the continuance of my knowledge, except that I think he went to lodge for a few weeks at New North street, Red Lion square, on account of his lodging having been let in his absence; but he returned again to No. 14 King street, Holborn, aforesaid, and continued there until his death. The said Matthias Aspden was a tall, thin man, rather shabby in his appearance, had but one eye, and was from seventy to eighty years of age. I am not aware that he was of any business, though he used often to go to the East India house, where he had stock. He died on or about the ninth day of August, one thousand eight hundred and twenty-four, at No. 14 King street, Holborn, aforesaid. My own age at the time of his death was twenty-nine years, or thereabouts.

To the third cross interrogatory on behalf of the said Joseph Lippencott, Leah Prickett, Martha Cole, and others, petitioners, I answer as follows: I mean by domicil, his place of living and sleeping. I acquired my knowledge of person, places, and dates, referred to in my answer to the third interrogatory in chief, from my own observation, having lived in the same house with the said Matthias Aspden from the year one thousand eight hundred and eighteen up to the time of his death.

To the fourth cross interrogatory on behalf of the said Joseph Lippencott, Leah Prickett, Martha Cole, and others, petitioners, I answer as follows: The source and particulars of my knowledge arise entirely from my own observations and personal knowledge. I have no written memoranda of the circumstances to which my answer relates.

To the fifth cross interrogatory on behalf of the said Joseph Lippencott, Leah Prickett, Martha Cole, and others, petitioners, I answer as follows: I am not in any manner related to or connected with the said Matthias Aspden, nor was I in the habit of business with him, and had but little intercourse with him; but what intercourse did exist between the said Matthias Aspden and myself commenced in the said

year one thousand eight hundred and eighteen, and ended at the time of his death. I never had any correspondence by letter with him.

JAMES GRUBY.

ALFRED KING,
JOHN TODHUNTER,
WILLIAM STRAKER.

To the first cross interrogatory, filed on the part of certain of the next of kin, claimants, I answer as follows: I am fifty-three years of age; my occupation is that of a grocer, and my residence is at Blackheath hill, in the county of Kent, England. I am no relation, either by consanguinity or affinity, to the said Matthias Aspden, nor to my knowledge have I any relations that are so connected with him.

To the second cross interrogatory, filed on the part of certain of the next of kin, claimants, I answer as follows: I was introduced to the knowledge or acquaintance of the said Matthias Aspden by his coming to reside with my mother, Mrs. Nunn, at No. 14 King street, Holborn, aforesaid, where I resided during the whole period that the said Matthias Aspden resided there. I had no business transactions of any description with the said Matthias Aspden.

To the third cross interrogatory, filed on the part of certain of the next of kin, claimants, I answer as follows: I mean by the word domicil, where the said Matthias Aspden lived and slept. I have no papers, letters, or documents of any description belonging to the said Matthias Aspden.

To the fourth cross interrogatory filed on the part of certain of the next of kin, claimants, I answer as follows: I do not profess to give any declaration or conversation of the said Matthias Aspden.

To the fifth cross interrogatory filed on the part of certain of the next of kin, claimants, I answer as follows: I have no interest, direct or indirect, in the decision of this cause, or in the estate of Matthias Aspden, deceased.

JAMES GRUBY.

ALFRED KING,
JOHN TODHUNTER,
WILLIAM STRAKER.

The examination of witnesses on this twenty-eighth day of August, one thousand eight hundred and forty-eight, was commenced at four o'clock in the afternoon, and was prosecuted without intermission until six o'clock in the afternoon, at which time we had concluded the examination in chief of James Gruby, and also his cross examination on both sets of cross interrogatories. We therefore adjourn the further execution of this commission until Tuesday, the twenty-ninth day of August, one thousand eight hundred and forty-eight, at one o'clock in the afternoon, to be then further prosecuted at this place.

ALFRED KING,
JOHN TODHUNTER,
WM. STRAKER

Twenty-ninth day of August, one thousand eight hundred and forty-eight, one o'clock, p. m. At the chambers of Alfred King, No. 2, Paper buildings, Inner Temple, in the city of London. The further execution of this commission was resumed at this time.

I, Timothy Wiggin, of Tokenhouse Yard, in the city of London, England, merchant, aged seventy-five years or thereabouts, being produced, sworn, and examined on behalf of the plaintiff, depose as follows:

To the first interrogatory on behalf of Samuel Jackson, administrator cum testamento annexo of John Aspden, deceased, late of Lancashire, England, I answer as follows: I do not know the parties complainant and defendant, in the title of these interrogatories named, nor either of them.

To the second interrogatory on behalf of the said Samuel Jackson I answer as follows: I did not know Matthias Aspden, the testator above named.

To the third interrogatory on behalf of the said Samuel Jackson I answer as follows: I do not know where the domicil of the said Matthias Aspden was on the sixth day of December, in the year of our Lord one thousand seven hundred and ninety-one, nor on or about the ninth day of August, in the year of our Lord one thousand eight hundred and twenty-four, nor in the intermediate time between the said sixth day of December, in the year of our Lord one thousand seven hundred and ninety-one, and the time of his death, on the ninth day of August, in the year of our Lord one thousand eight hundred and twenty-four.

To the fourth interrogatory on behalf of the said Samuel Jackson I answer as follows: I do not know where the said Matthias Aspden lived, from the year one thousand seven hundred and seventy-seven up to the time of his death, nor where he died.

To the last interrogatory on behalf of the said Samuel Jackson I depose as follows: I do not know, nor can I set forth any matter or thing which may be a benefit or advantage to the parties at issue in this cause, or either of them, or that may be material to the subject of this my examination, or the matters in question in this cause, except that I acted in London, under the direction of Mr. Henry Nixon, the executor of the said Matthias Aspden, deceased, in realizing the effects of the said Matthias Aspden, deceased, in England, and transmitting them to the said Mr. Nixon, in America. This was about the year one thousand eight hundred and twenty-six, or one thousand eight hundred and twenty-seven; I think extending over a greater portion of those years. Subsequently, and some four or five years after this, I was applied to by the said Mr. Nixon to send over to America the papers of the said Matthias Aspden, deceased, which, in my opinion, were material. In consequence of Mr. Nixon's application to me, I searched all the packages belonging to the said Matthias Aspden, deceased, at Messrs. Hoare & Co., of Fleet street, London, the bankers of the said deceased, and forwarded the papers to the said Mr. Nixon,

in America. These papers consisted principally of memorandums and papers relative to his cash transactions and speculations in England, France, and America.

TIMOTHY WIGGIN.

ALFRED KING,
JOHN TODHUNTER,
WILLM. STRAKER.

To the first cross interrogatory filed on behalf of Joseph Lippencott, Leah Prickett, Martha Cole, and others, petitioners, I answer as follows: I never knew the complainant or defendant, nor where they lived.

To the second cross interrogatory on behalf of the said Joseph Lippencott, Leah Prickett, Martha Cole, and others, petitioners, I answer as follows: I never knew where the said Matthias Aspden lived, nor where he died.

To the third cross interrogatory on behalf of the said Joseph Lippencott, Leah Prickett, Martha Cole, and others, petitioners, I answer as follows: I know nothing whatever of the domicil of the said Matthias Aspden, deceased.

To the fourth cross interrogatory on behalf of the said Joseph Lippencott, Leah Prickett, Martha Cole, and others, petitioners, I answer as follows: I have no knowledge whatever of the matters inquired after by this interrogatory.

To the fifth cross interrogatory on behalf of the said Joseph Lippencott, Leah Prickett, Martha Cole, and others, petitioners, I answer as follows: I am not in any manner related to or connected with the said Matthias Aspden, nor was I in the habit of business or other intercourse with him.

TIMOTHY WIGGIN.

ALFRED KING,
JOHN TODHUNTER,
WILLIAM STRAKER.

To the first cross interrogatory filed on the part of certain of the next of kin, claimants, I answer as follows: I am seventy-five years of age; my occupation is that of a merchant, and my residence is in Tokenhouse Yard, in the city of London, England. I am no relation, either by consanguinity or affinity, to the said Matthias Aspden, nor to my knowledge have I any relations that are so connected with him.

To the second cross interrogatory filed on the part of certain of the next of kin, claimants, I answer as follows: I was never introduced to the knowledge or acquaintance of the said Matthias Aspden, nor had I any business transactions with him.

To the third cross interrogatory filed on the part of certain of the next of kin, claimants, I answer as follows: I have not answered the third interrogatory in chief, and know nothing whatever of the domicil of the said Matthias Aspden, deceased.

To the fourth cross interrogatory filed on the part of certain of the next of kin, claimants, I answer as follows: I do not profess to give any declaration or conversation of the said Matthias Aspden, deceased.

To the fifth cross interrogatory filed on the part of certain of the next of kin, claimants, I answer as follows: I have no interest, direct or indirect, in the decision of this cause, or in the estate of Matthias Aspden, deceased.

TIMOTHY WIGGIN.

ALFRED KING,
JOHN TODHUNTER,
WILLIAM STRAKER.

I, Brown Collison, of Fleet street, in the city of London, senior clerk to Messrs. Hoare, bankers there, aged seventy-six years or thereabouts, being produced, sworn, and examined on behalf of the plaintiff, depose as follows:

To the first interrogatory on behalf of Samuel Jackson, administrator cum testamento annexo of John Aspden, deceased, late of Lancashire, England, I answer as follows: I do not know the parties complainant and defendant, in the title of these interrogatories named, nor either of them.

To the second interrogatory on behalf of the said Samuel Jackson I answer as follows: I did know Matthias Aspden, the testator above named, from about the year one thousand seven hundred and ninety-five. I did not know his residence at that time, as I only knew him from coming to Messrs. Hoare's bank, on business. I knew him from the said year one thousand seven hundred and ninety-five up to the time of his death.

To the third interrogatory on behalf of the said Samuel Jackson I answer as follows: I do not know where the domicil of the said Matthias Aspden was on the sixth day of December, in the year of our Lord one thousand seven hundred and ninety-one. I do know his domicil on or about the ninth day of August, in the year of our Lord one thousand eight hundred and twenty-four; but I do not know his domicil in the intermediate time between the said sixth day of December, in the year of our Lord one thousand seven hundred and ninety-one, and the said year one thousand eight hundred and twenty-four; but I do know his domicil at the time of his death, on the ninth day of August, in the year of our Lord one thousand eight hundred and twenty-four. I acquired my knowledge of his domicil from having seen his body, after death, at No. 14, King street, Holborn, in the county of Middlesex, England, where he died. I have no papers, letters, or other documents in my possession, which contain any information relating to the said question of domicil.

To the fourth interrogatory on behalf of the said Samuel Jackson I answer as follows: I do not know where the said Matthias Aspden lived from the year one thousand seven hundred and seventy-seven, up to the said year one thousand eight hundred and twenty-four; but I do

know that the said Matthias Aspden died in the year one thousand eight hundred and twenty-four, at No. 14, King street, Holborn, as aforesaid.

To the last interrogatory on behalf of the said Samuel Jackson I depose as follows: I do not know, nor can I set forth, any matter or thing which may be a benefit or advantage to the parties at issue in this cause, or either of them, or that may be material to the subject of this my examination, or the matters in question in this cause, except that the said Matthias Aspden, deceased, kept a continued account at the banking-house of the said Messrs. Hoare, in Fleet street, from about the year one thousand seven hundred and ninety-five up to the time of his death, and was frequently coming there on business during the whole of the period, from about the said year one thousand seven hundred and ninety-five up to the time of his death.

BROWN COLLISON.

ALFRED KING.
JOHN TODHUNTER.
WILLM. STRAKER.

To the first cross interrogatory filed on behalf of Joseph Lippencott, Leah Prickett, Martha Cole, and others, petitioners, I answer as follows: I never knew the complainant or defendant, nor where they lived.

To the second cross interrogatory on behalf of the said Joseph Lippencott, Leah Prickett, and Martha Cole, and others, petitioners, I answer as follows: I cannot state where the said Matthias Aspden lived at the time I first knew him, nor what changes he made in his residence during the continuance of my knowledge. The said Matthias Aspden was a tall, rather thin man, and I believe he had but one eye, and I should think he was turned of seventy years of age; and I have no knowledge of his being in business. He died about the year one thousand eight hundred and twenty-four, at No. 14, King street, Holborn, aforesaid; but I cannot state the exact period of his death. My own age, at the time of his death, was fifty-two years, or thereabouts.

To the third cross interrogatory on behalf of the said Joseph Lippencott, Leah Prickett, Martha Cole, and others, petitioners, I answer as follows: I mean by domicil, the house or residence of the said Matthias Aspden, deceased. I acquired my knowledge of person, places, and dates, referred to in my answer to the third interrogatory in chief, entirely from my own observation and personal knowledge.

To the fourth cross interrogatory on behalf of the said Joseph Lippencott, Leah Prickett, Martha Cole, and others, petitioners, I answer as follows: The source and particulars of my knowledge arose from my being requested by the landlady of the house No. 14, King street, Holborn, aforesaid, to call and see the deceased, after he had died; and I accordingly went to the said house, No. 14, King street, Hol-

born, aforesaid, where I saw the said Matthias Aspden, deceased, lying dead.

To the fifth cross interrogatory on behalf of the said Joseph Lippencott, Leah Prickett, Martha Cole, and others, petitioners, I answer as follows: I am not in any manner related to the, or connected with the, said Matthias Aspden; but I was in the habit of business and intercourse with him, from his frequently coming to the banking-house of the said Messrs. Hoare & Co., during the whole period from about the said year one thousand seven hundred and ninety-five, up to the time of his death, in one thousand eight hundred and twenty-four, such business and intercourse as aforesaid commencing about the said year one thousand seven hundred and ninety-five, and terminating in the said year one thousand eight hundred and twenty-four; I had no correspondence with the said Matthias Aspden by letter, nor have I any letters in my possession written by him.

BROWN COLLISON.

ALFRED KING,
JOHN TODHUNTER,
WILLM. STRAKER.

To the first cross interrogatory, filed on the part of certain of the next of kin, claimants, I answer as follows: I am seventy-six years of age; my occupation is that of a banker's clerk, and my residence is in Guildford street, London, England; I am no relation, either by consanguinity or affinity, to the said Matthias Aspden, nor to my knowledge have I any relations that are so connected with him.

To the second cross interrogatory, filed on the part of certain of the next of kin, claimants, I answer as follows: I was introduced to the knowledge or acquaintance of the said Matthias Aspden, by his having an account at the banking-house of the Messrs. Hoare & Company; but I had no other business transanctions with him of any description.

To the third cross interrogatory, filed on the part of certain of the next of kin, claimants, I answer as follows: I mean by the word domicil, the home or residence of the said Matthias Aspden, deceased; I do not refer to any papers, letters, or documents, nor have I any in my possession belonging to the said Matthias Aspden.

To the fourth cross interrogatory, filed on the part of certain of the next of kin, claimants, I answer as follows: I do not profess to give any declaration or conversation of the said Matthias Aspden.

To the fifth cross interrogatory, filed on the part of certain of the next of kin, claimants, I answer as follows: I have no interest, direct or indirect, in the decision of this cause, or in the estate of Matthias Aspden, deceased.

BROWN COLLISON.

ALFRED KING,
JOHN TODHUNTER,
WILLM. STRAKER.

I, Mary Poole, of No. 4, Beaumont's Place, Lower Holloway, in the county of Middlesex, widow, aged seventy-eight years, or thereabouts, being produced, sworn, and examined on behalf of the plaintiff, depose as follows:

To the first interrogatory on behalf of Samuel Jackson, administrator cum testamento annexo of John Aspden, deceased, late of Lancashire, England, I answer as follows: I do not know the parties, complainant and defendant, in the title of these interrogatories named, nor either of them.

To the second interrogatory on behalf of the said Samuel Jackson I answer as follows: I knew Matthias Aspden, the testator above named, from about the year one thousand seven hundred and eighty, and he was then residing in one of the streets in the Strand, in the county of Middlesex, England; and I knew him from that time up to about the year one thousand seven hundred and eighty-eight.

To the third interrogatory on behalf of the said Samuel Jackson I answer as follows: I did not know where the domicil of the said Matthias Aspden was on the sixth day of December, in the year of our Lord one thousand seven hundred and ninety-one, nor on or about the ninth day of August, in the year of our Lord one thousand eight hundred and twenty-four, nor in the intermediate time between the said sixth day of December, in the year of our Lord one thousand seven hundred and ninety-one, and the time of his death on the ninth day of August, in the year of our Lord one thousand eight hundred and twenty-four.

To the fourth interrogatory on behalf of the said Samuel Jackson I answer as follows: I do not know where the said Matthias Aspden lived from the year one thousand seven hundred and seven-seven up to the time of his death. I only knew him from about the year one thousand seven hundred and eighty up to about the year one thousand seven hundred and eighty-eight.

To the last interrogatory on behalf of the said Samuel Jackson I depose as follows: I do not know, nor can I set forth, any other matter or thing which may be a benefit or advantage to the parties at issue in this cause, or either of them, or that may be material to the subject of this my examination, or the matters in question in this cause.

MARY POOLE.

ALFRED KING,
JOHN TODHUNTER,
WILLM. STRAKER.

To the first cross interrogatory filed on behalf of Joseph Lippencott, Leah Prickett, Martha Cole, and others, petitioners, I answer as follows: I never knew the complainant or defendant, nor where they lived.

To the second cross interrogatory on behalf of the said Joseph Lippencott, Leah Prickett, Martha Cole, and others, petitioners, I answer as follows: The said Matthias Aspden lived, at the time I first knew him, in one of the streets in the Strand aforesaid; this was in the year

one thousand seven hundred and eighty, or thereabouts; but I do not know how long he continued to reside there, nor what changes he made in his residence during the continuance of my knowledge. The said Matthias Aspden was a tall, stout gentleman, but I do not remember his age. He had lost the sight of one eye. He was of no business, as I ever heard of; but I do not know the time and place of his death.

To the third cross interrogatory on behalf of the said Joseph Lippencott, Leah Prickett, Martha Cole, and others, petitioners, I answer as follows: I have not answered the third interrogatory in chief affirmatively, and cannot answer any of the matters inquired after by this interrogatory.

To the fourth cross interrogatory on behalf of the said Joseph Lippencott, Leah Prickett, Martha Cole, and others, petitioners, I answer as follows: I have not answered the fourth interrogatory in chief affirmatively, and cannot answer any of the matters inquired after by this interrogatory, nor have I any written memoranda of any description.

To the fifth cross interrogatory on behalf of the said Joseph Lippencott, Leah Prickett, Martha Cole, and others, petitioners, I answer as follows: I am related to, and was connected with the said Matthias Aspden. I was not in the habit of business with him, and the only intercourse I had with him was on the occasion of his sometimes calling on my father, which was very seldom, between the said years one thousand seven hundred and eighty and one thousand seven hundred and eighty-eight; and upon one occasion, shortly after my sister's marriage, in November, one thousand seven hundred and eighty-eight, when he called for the purpose of reconciling my father to my sister's marriage, she having married without the consent of my said father; and after this I never saw the said Matthias Aspden. My intercourse with the said Matthias Aspden commenced about the year one thousand seven hundred and eighty, and ended about the year one thousand seven hundred and eighty-eight. I never had any correspondence with the said Matthias Aspden, deceased, and have no letters written by him in my possession.

MARY POOLE.

ALFRED KING,
JOHN TODHUNTER,
WILLM. STRAKER.

To the first cross interrogatory filed on the part of certain of the next of kin, claimants, I answer as follows: I am seventy-eight years of age; I have no business or occupation, and my residence is No. 4 Beaumont's Place, Lower Holloway, in the county of Middlesex, England. I am related by consanguinity or affinity to the said Matthias Aspden, and I have relations that are so connected with him, two nephews and two nieces, namely, John Joseph Jones and David Jones, and Caroline Matilda Jones and Jeannett Jones.

To the second cross interrogatory filed on the part of certain next of kin, claimants, I answer as follows: I was introduced to the knowledge or acquaintance of the said Matthias Aspden, by his coming to see my father when I was young. I had no business transactions whatever with the said Matthias Aspden, deceased.

To the third cross interrogatory filed on the part of certain of the next of kin, claimants, I answer as follows: I have not answered the third interrogatory in chief, and cannot answer any of the matters inquired after in this interrogatory. I have no papers, letters, or documents belonging to the said Matthias Aspden, deceased.

To the fourth cross interrogatory filed on the part of certain of the next of kin, claimants, I answer as follows: I have not professed to give any declaration or conversation of the said Matthias Aspden.

To the fifth cross interrogatory filed on the part of certain of the next of kin, claimants, I answer as follows: I have no interest, direct or indirect, in the decision of this cause, or in the estate of Matthias Aspden, deceased, as I have sold my interest therein, if any, to Mr. Andrew Aspden, of Aldermanbury Postern, in the city of London, for a valuable consideration.

MARY POOLE.

ALFRED KING,
JOHN TODHUNTER,
WILLM. STRAKER.

Dated 31st August, 1846.

Mrs. Mary Poole to Mr. Andrew Aspden. A'signment of interest in real and personal estates of Matthias Aspden, deceased.

This indenture, made the thirty-first day of August, one thousand eight hundred and forty-six, between Mary Poole, of Kingsland, in the county of Middlesex, widow, of the one part, and Andrew Aspden, of London Wall, in the city of London, warehouseman, of the other part, witnesseth: That the said Mary Poole, as one of the parties claiming to be interested in the real and per sonal estates of Matthias Aspden, formerly of the kingdom of Great Britain, and afterwards of the United States of America, and who died in England, in or about the year one thousand eight hundred and twenty-four, hath, in consideration of the annuity or sum of one pound per week, to be paid to her by the said Andrew Aspden, for her natural life, contracted and agreed with the said Andrew Aspden, to assign and transfer, and, by these presents, doth assign and transfer, unto the said Andrew Aspden, his executors, administrators, and assigns, all and singular the right, title, property, claim, and interest, costs, charges, and expenses, if any, in possession, reversion, or otherwise, howsoever, which now is, or at any at time hereafter shall be, due, owing, or belonging to, or in any way receivable or recoverable by her, the said Mary Poole, on account or in respect of the real or personal estates of the said Matthias Aspden, deceased, and now in question in a certain suit, or in certain suits, of Packer against

Nixon, and Aspden against Trotter, pending in the Supreme Court of the United States of America, or otherwise, howsoever, together with all the powers and remedies of her, the said Mary Poole, her heirs, executors, or administrators, to sue for, recover, and receive the same, either in the name or names of her, the said Mary Poole, her heirs, executors, or administrators, or in the name or names of him, the said Andrew Aspden, his heirs, executors, administrators, or assigns, and also to compromise or compound the same, as to the said Andrew Aspden, his heirs, executors, administrators, or assigns, shall or may in his or their unlimited discretion seem best, and all necessary and proper receipts, releases, and discharges, to sign, give, and execute, and for all or any of the purposes aforesaid, to appoint one or more attorney or attorneys under him and them, and to revoke and reappoint the same, or any other person or persons, to act either in the name or names of the said Mary Poole, her executors or administrators, or in the name or names of the said Andrew Aspden, his heirs, executors, administrators, or assigns, to have, hold, receive, and take the said right, title, property, claim, and interest, costs, charges, and expenses, unto the said Andrew Aspden, his heirs, executors, administrators, or assigns, for his and their own absolute use and benefit, and as and for his and their own property and effects. And this indenture further witnesseth, that the said Andrew Aspden hath, in consideration of the herein before mentioned assignment and transfer, and of the other premises, contracted and agreed with the said Mary Poole, and by these presents doth contract and agree to pay to the said Mary Poole, for and during her natural life, the annuity or sum of one pound per week, by weekly payments, on the Monday of each week, before the hour of eight of the o'clock in the afternoon, without any deduction or abatement, on any account or pretence whatsoever, and the first payment thereof to begin and be made on Monday, the seventh day of September now next ensuing the date hereof: Provided, nevertheless, that if default shall at any time be made in payment of the said weekly sum of one pound, in manner aforesaid, for the time or space of six weeks, then the hereinbefore mentioned assignment and transfer, and all the powers and remedies hereby given shall from thenceforth cease, determine, and be at an end, for every intent and purpose whatsoever, and all the sum and sums of money previously paid on account or in respect thereof, shall be forfeited, and be retained by and be the absolute property of the said Mary Poole, her executors and administrators. And the said Mary Poole doth hereby, for herself, her heirs, executors, and administrators, covenant, promise, and agree, with and to the said Andrew Aspden, his heirs, executors, administrators, and assigns, that she hath not at any time heretofore made, done, committed, or executed any act, deed, matter, or thing which can, shall, or may in any way prevent or hinder, or prejudicially affect, the assignment and transfer, powers and remedies hereby, or expressed, or intended to be hereby given, to the said Andrew Aspden, his heirs, executors, or administrators, or assigns, from vesting or taking full and complete effect, according to the true intent and meaning

hereof. And also that she, the said Mary Poole, her heirs, executors, or administrators, shall and will, from time to time, at the request, costs, and charges of the said Andrew Aspden, his heirs, executors, admintrators, or assigns, sign, seal, deliver, or execute every deed or other instrument, and do and perform every other act, matter, or thing which may be requisite and necessary, or by counsel be deemed proper for more effectually and completely vesting in, or enabling the said Andrew Aspden, his heirs, executors, administrators, or assigns, to recover and receive the said right, title, property, claim, and interest of the said Mary Poole of, in, and to all and every or any part of the said estate and effects of the said Matthias Aspden, deceased.

In witness whereof the said parties to these presents have herein set their hands and seals, the day and year first above written.

MARY POOLE, [L. S.]
ANDREW ASPDEN. [L. S.]

Signed, sealed, and delivered, by the above named Mary Poole and Andrew Aspden, in the presence of—

J. THOMPSON,
No. 4, Chad's row,
Gray's Inn road, London, gentleman.

Dated 17th August, 1848.

Mrs. Mary Poole to Mr. Andrew Aspden. Deed of confirmation of assignment of interest in real and personal estate of Matthias Aspden, deceased.

This indenture, made the seventeenth day of August, one thousand eight hundred and forty-eight, between Mary Poole, late of Kingsland, but now of Holloway, both in the county of Middlesex, widow, of the one part, and Andrew Aspden, of London Wall and Aldermanbury Postern, both in the city of London, warehouseman, of the other part: Whereas, by an indenture, dated the 31st day of August, one thousand eight hundred and forty-six, made between the said Mary Poole, of the one part, and the said Andrew Aspden, of the other part, it is witnessed that the said Mary Poole, as one of the parties claiming to be interested in the real and personal estates of Matthias Aspden, formerly of the kingdom of Great Britain, and afterwards of the United States of America, and who died in England, in or about the year one thousand eight hundred and twenty-four, did, in consideration of the annuity of one pound per week, to be paid to her by the said Andrew Aspden for her natural life, contract and agree with the said Andrew Aspden, to assign and transfer, and did assign and transfer, unto the said Andrew Aspden, his executors, administrators, and assigns, all and singular the right, title, property, claim, and interest, costs, charges, and expenses, if any, in possession, reversion, or otherwise howsoever, which then was, or at any time thereafter should be, due, owing, or belonging to, or in any way receivable or recoverable by her, the said Mary Poole, on account or in respect of the real or personal estates of the said Mat-

thias Aspden, deceased, and then in question in a certain suit, or in certain suits, of Packer against Nixon, and Aspden against Trotter, pending in the Supreme Court of the United States of America, or otherwise howsoever, together with all the powers and remedies of her, the said Mary Poole, her heirs, executors, or administrators, to sue for, recover, and receive the same, either in the name or names of her, the said Mary Poole, her heirs, executors, or administrators, or in the name or names of him, the said Andrew Aspden, his heirs, executors, administrators, or assigns, and also to compromise or compound the same, as to the said Andrew Aspden, his heirs, executors, administrators, or assigns, should and might in his or their unlimited discretion seem best; and all necessary and proper receipts, releases, and discharges to sign, give, and execute, and for all or any of the purposes aforesaid, to appoint one or more attorney or attorneys under him and them, and to revoke and reappoint the same, or any other person or persons, to act either in the name or names of the said Mary Poole, her executors or administrators, or in the name or names of the said Andrew Aspden, his heirs, executors, administrators, or assigns, to have, hold, receive, and take the said right, title, property, claim, and interest, costs, charges, and expenses, unto the said Andrew Aspden, his executors, administrators, and assigns, for his and their own absolute use and benefit, and as and for his and their own property and effects. And it is by the same indenture further witnessed, that the said Andrew Aspden, in consideration of the therein before mentioned assignment and transfer, and other the premises, had contracted and agreed with the said Mary Poole, and by the said indenture did contract and agree to pay to the said Mary Poole, for and during her natural life, the annuity or sum of one pound per week, by weekly payments, on the Monday of each week, before the hour of eight of the clock in the afternoon, without any deduction or abatement on any account or pretence whatsoever, and the first payment thereof to begin and be made on Monday, the seventh day of September then next ensuing the date of the said indenture, with a proviso, that if default should at any time be made in payment of the said weekly sum of one pound, in manner aforesaid, for the time or space of six weeks, then the therein before mentioned assignment and transfer, and all the powers and remedies by the said indenture given, should from thenceforth cease, determine, and be at an end, for every intent and purpose whatsoever, and all the sum and sums of money previously paid on account or in respect thereof, should be forfeited to, and be retained by, and be the absolute property of, the said Mary Poole, her executors, and administrators. And in the said indenture is contained a covenant on the part of the said Mary Poole, to and with the said Andrew Aspden, that she had not at any time theretofore done or executed any act, deed, matter, or thing to prevent or hinder her making the said assignment, or giving the said powers and remedies, or to prevent the same taking full and complete effect; and also a covenant that she, the said Mary Poole, her heirs, executors, or administrators, should and would, from time to time, at the request,

costs, and charges of the said Andrew Aspden, his heirs, executors, administrators, or assigns, sign, seal, deliver, or execute, every deed or other instrument, and do and perform every other act, matter, or thing, which might be requisite and necessary, or by counsel be deemed proper for more effectually and completely vesting in, or enabling the said Andrew Aspden, his heirs, executors, administrators, or assigns, to recover and receive the said right, title, property, claim, and interest of the said Mary Poole of, in, and to all and every or any part of the said estate and effects of the said Matthias Aspden, deceased. And whereas the said Andrew Aspden hath duly and punctually paid and discharged the said annuity or sum of one pound per week, pursuant to the said recited indenture, up to the day of the date hereof; and whereas letters of administration of the goods, chattels, and effects of John Aspden, of Old street, in the city of London, turner, deceased, was some time since granted by and out of the proper court in the United States of America, to John A. Brown, of the city of Philadelphia, in the said States, and such letters of adminstration are still in force and effect; and whereas the said Mary Poole is desirous of confirming and ratifying the said hereinbefore recited indenture, dated the thirty-first day of August, one thousand eight hundred and forty-six, and of giving to the said Andew Aspden such further power and authority in the premises as hereinafter contained: Now, this indenture witnesseth, that in consideration of the premises, and of the sum of five shillings of lawful British money to the said Mary Poole paid by the said Andrew Aspden at or before the sealing and delivery of these presents, the receipt whereof is hereby acknowledged, she, the said Mary Poole, doth hereby fully and irrevocably ratify and confirm the said recited indenture, dated the thirty-first day of August, one thousand eight hundred and forty-six, and every matter and thing therein contained, according to the true intent and meaning thereof; and doth also hereby authorize and empower the said Andrew Aspden, his heirs, executors, administrators, and assigns, and each and every of them, and any attorney or attorneys to be by him or them, from time to time, and at all times hereafter, in that behalf authorized or appointed, to call to an account and reckoning, and settle accounts with the said John A. Brown, as such administrator as aforesaid, and his heirs, executors, administrators, and assigns, and each and every of them, and every other person or persons whom it doth, or shall, or may in any way concern, or who may have been, or shall, or may be administrator or administrators of the said John Aspden, of Old street aforesaid, or shall have acted, or may be acting, or shall hereafter act, in that character or capacity, and either in the name or names of the said Mary Poole, her heirs, executors, or administrators, or in the name or names of the said Andrew Aspden, his heirs, executors, administrators, or assigns, to require and enforce payment or delivery of any sum or sums of money, or other property and effects, which may thereupon be found due, owing, or belonging to the said Mary Poole, her heirs, executors, or administrators, for or in respect of the estate or effects of the

said Matthias Aspden, deceased, or of the said John Aspden, deceased, in respect thereof, and on receipt of any sum or sums of money, or other property and effects, proper and sufficient releases and discharges to sign, seal, deliver, or give, she, the said Mary Poole, hereby, for herself, her heirs, executors, and administrators, ratifying, and agreeing to ratify and confirm, whatsoever shall or may be done in the premises.

In witness whereof the said parties have hereto set their hands and seals the day and year first within written.

MARY POOLE, [L. S.]
ANDREW ASPDEN. [L. S.]

Signed, sealed, and delivered by the above named Mary Poole and Andrew Aspden, in the presence of—

J. THOMPSON,
No. 4 Chad's Row, Gray's Inn road, London, gentleman.

Report of the master, with the depositions of Joseph Roberts and Josiah Randall.

Afterwards, to wit, on the twenty-ninth day of September aforesaid, the report of the master, under the order of the twenty-ninth of May, 1848, with the depositions of Joseph Roberts and Josiah Randall, is presented; which report and depositions are in the words and of the tenor following, to wit:

To the honorable the judges of the circuit court of the United States, for the eastern district of Pennsylvania.

I respectfully report, that, under the authority of the order made in this cause on the twenty-ninth day of May last, having been requested by the counsel for the defendants in the issue depending in this cause to take the depositions of witnesses to prove the handwriting to certain papers remaining in the trunk of the testator, Matthias Aspden, deposited in the banking house of the Bank of Pennsylvania, in the city of Philadelphia, I appointed Thursday, the 28th day of September, 1848, at four o'clock in the afternoon of that day, to take the depositions of witnesses at the said place; and I caused five days' notice thereof to be given to the counsel of the opposite party.

And on the said day and hour, and at the said place, I was attended by Benjamin Tilghman, esquire, one of the counsel for the plaintiffs in the issue; and by John L. Newbold, esquire, on the same side; and by Josiah Randall and Henry J. Williams, esquires, two of the counsel for the defendants in the issue, with whom was Thomas A. Budd, esquire.

And I then and there took the deposition of Mr. Joseph Roberts, a witness (who had formerly been examined in this cause) to the handwriting of certain papers produced and shown to him, taken from the said trunk, which handwriting purported to be that of the said testator. The papers so produced and deposed to, were identified by writ-

ing the initials of the names of the witness and of the master thereon.

I also took the deposition of Josiah Randall, esquire; which depositions of Joseph Roberts and Josiah Randall, esquire, are hereunto annexed.

All which is respectfully submitted.

T. I. WHARTON,
Master.

September 29th, 1848.

In the circuit court of the United States, for the eastern district of Pennsylvania.

Depositions of witnesses taken at the banking house of the bank of Pennsylvania, on Thursday, the twenty-eighth day of September, A. D. 1848, in the afternoon of that day, in the cause of Packer against Nixon, executor of Aspden. In equity.

Joseph Roberts, of the city of Philadelphia, aged about seventy-three years, having been duly sworn on the part of the defendants in the issue, deposes as follows:

I have already stated in my former deposition that I was acquainted with Matthias Aspden, the testator in this cause, and that I had seen him write, and have had frequent opportunities of becoming acquainted with his handwriting.

The following papers, purporting to be letters, addressed by Matthias Aspden to Thomas Willing, president of the Bank of the United States, being exhibited to the witness, he says:

I believe these papers to be in the handwriting of Matthias Aspden, the testator, and the signatures to be in his handwriting. I designate or identify these papers by the initials of my name, viz., J. R.

London, March 29, 1796. Matthias Aspden to the hon. Thomas Willing, president of the Bank of the United States, a president for the time being, in Philadelphia.

London, July 25, 1796. Same to same.

London, October 4th, 1800. Same to same.

London, June 18th, 1803. Same to same.

London, August 24th, 1804. Same to same.

London, February 12th, 1805. Same to same.

London, December 31st, 1805. Same to same; with a postscript, dated January 13th, 1806.

London, January 12th, 1807. Same to same.

London, July 8th, 1805. Same to same.

(The following paper being exhibited to the witness, he says:)

I believe this letter, or note, to be in the proper handwriting of the said Matthias Aspden, excepting a note addressed to "Mr. Aspden," which purports to have been written by John McDougall.

Letter, or note, dated July 8th or 9th, 1805, purporting to be a note from Mr. Aspden to Capt. M'Dougall, or copy thereof, with the remarks of Mr. Aspden upon the same.

A certain printed pamphlet, entitled "A list of the names of the members of the United Company of Merchants of England trading to the East Indies," &c., having been exhibited to the witness, he says, the name "Matthias Aspden," upon the title page is in the handwriting of the said Matthias Aspden, to the best of my knowledge and belief.

Another printed pamphlet, entitled "A list of the names of all such proprietors of the Bank of England," &c., having been exhibited to the witness, he says, the name "Matthias Aspden," upon the title page, is in the handwriting of the said Matthias Aspden, to the best of my knowledge and belief.

The witness, being now examined on the part of the plaintiffs in the issue, says:

A letter dated Liverpool, October 5th, 1805, from Matthias Aspden to "Daniel Clymer, Lancaster, State of Pennsylvania," having been exhibited to the witness, he says, I have no doubt that the whole letter and the signature are in the handwriting of the testator, Matthias Aspden.

JOSEPH ROBERTS.

Deposition taken, read over to the witness, and by him subscribed and sworn to, this 28th day of September, A. D. 1848.

T. I. WHARTON, *Master*.

Note by the clerk of the court.

The printed pamphlets referred to by the witness, Joseph Roberts, in his foregoing deposition, taken before the master, are entitled:

1st. "A list of the names of the members of the United Company of Merchants of England, trading to the East Indies, who appear qualified to vote at their general courts."

Amongst the printed names in this list, is that of Matthias Aspden, esq., Richmond, Surry;" who is stated to be entitled to one vote, and capable of being chosen a director of the company. And

2d. "A list of the names of all such proprietors of the Bank of England who are qualified to vote at the ensuing election to be made of governor and deputy governor, on Tuesday, the 11th of April, and of directors on Wednesday, the 12th of April, 1815."

Amongst the printed names in this list is that of Matthias Aspden, esq., Orange st., Red Lion squiare," who is stated to be entitled to one vote.

Josiah Randall, of the city of Philadelphia, counsellor at law, aged about fifty-seven years, being duly sworn, on the part of the defendants in the issue, deposeth as follows:

I hold in my hand two indentures, or agreements, between Mrs. Mary Poole and Mr. Andrew Aspden, one dated 31st of August, 1846, the other dated the 17th of August, 1848; they are both of them witnessed by J. Thompson. I know Mr. Thompson; I have seen him write, and I believe his signature to the agreements to be his proper

handwriting. I have also heard him acknowledge both signatures to be his proper handwriting. I was in London at the time the last commission was executed, but I was not present at the execution of it, or examination. Mr. Smith, the agent for the parties who issued the commission, acted under my direction. On or about the twenty-fifth of August last, I suggested the propriety of examining Mrs. Poole; (objected to by Mr. Tilghman;) before that time I had never heard a suggestion made of examining Mrs. Poole as a witness; and, so far as I know, the execution of these two instruments was entirely unconnected with her examination as a witness. I received these two papers, together with a note accompanying the same, from Andrew Aspden, on or about the twenty-sixth of August last, in the city of London.

(The counsel for the plaintiffs in the issue decline cross examination.)

J. RANDALL.

Deposition taken, read over to the witness, and by him subscribed and sworn to, this 28th day of September, A. D. 1848.

T. I. WHARTON, *Master.*

Samuel Jackson substituted in the place of Thomas Aspden, &c.

Afterwards, to wit, on the second day of October, 1848, on motion of H. D. Gilpin, esquire, it is ordered by the court here that the name of Samuel Jackson be substituted in the place of Thomas Aspden, as administrator cum testamento annexo of John Aspden, of Lancashire, one of the defendants in the feigned issue.

Jury on feigned issue on question of domicil.

And thereupon a jury being called, come, to wit, John S. Crans, Benjamin Jeffries, James M. Owens, Peter Binder, Thomas Hemphill, sen., William Goode, Joseph R. Dickson, Thomas Temple, James S. Steelman, John Davis, Spencer Nolen, and William Allen, who are respectively sworn or affirmed to try the issue aforesaid. [Vide page 673.]

Plaintiff's testimony upon the trial.

And upon the trial of the said issues, the saiid plaintiff gives in evidence, in support of the issues on his part, the following, to wit:

The will of Matthias Aspden, dated December 6, 1791, proved 19th November, 1824. (See page 157.)

The correspondence and documents in this record, (between pages 380 and 628.)

The will of the testator's father, Matthias Aspden, sen., (page 63.)

The letter of Peter Reeve and Abraham Leddens, to Thomas Aspden, as follows, to wit:

PHILADELPHIA, *June* , 1766.

RESPECTED FRIEND, THOMAS ASPDEN: We received your letter of

19th December, directed to your sister, Mary Aspden, with a power of attorney.

Captain Henry Harrison, who is dead, but if he had been living, he could not have recovered it for want of the evidences here to prove it. But to give you as little trouble as possible, we have directed David Barclay and Sons, merchants in London, to pay you, giving them a proper discharge; bills of exchange are here at 66 per cent.

Under you have the sums you have to receive. We, this day, heard of the arrival of the vessel that your sister Mary and cousin Matthias went in; hope they are in good health.

£200 currency,		Thomas Aspden, 66 -	£120 9 7½		
		Commission of, at 2½ -	2 19 0	£117	10 7½
£30	do.	to Ann Aspden - - - -		17	12 8¼
£30	do.	to John and Elizabeth Corless - -		17	12 8¼
£30	do.	to James and Margery Taylor -		17	12 8¼
		Nett sum you have to receive - -		£170	8 8¼

We are, with best respects, your sincere friends,

PETER REEVE,
ABRAHAM LEDDENS.

We, Thomas Aspden, of Blackburn, in the county of Lancaster, ale keeper; John Corless, of Osbaldeston, in the said county, weaver, and Elizabeth, his wife; James Taylor, of Great Harwood, in the said county, weaver, and Margery, his wife, and Ann Aspden now or late of Great Harwood, aforesaid, spinster, do hereby own and acknowledge to have this day had and received, of and from Peter Reeve and Abraham Leddens, gentlemen, two of the executors of the last will and testament of Matthias Aspden, late of Philadelphia, in North America, merchant, deceased, the several legacies hereinafter mentioned, to wit, the sum of two hundred pounds by me, the said Thomas Aspden; the sum of thirty pounds by me, the said John Corless, in right of me, the said Elizabeth, his wife; the sum of thirty pounds by me, the said James Taylor, in right of me, the said Margery, his wife; and the sum of thirty pounds by me, the said Ann Aspden, in full discharge of the like several and respective legacies or sums of money given respectively by the last will and testament of the said Matthias Aspden, and of all actions on account thereof; and whereof we do hereby respectively acquit, release, and discharge the said Peter Reeve and Abraham Leddens, their heirs, executors, administrators, and assigns. As witness our hands this second day of August, one thousand seven hundred and sixty-six.

THOMAS ASPDEN,
JOHN CORLESS,
The mark of
ELIZABETH ⋉ CORLESS,

The mark of
JAMES ⋋ TAYLOR,
The mark of
MARGERY ⋋ TAYLOR,
The mark of
ANN ⋋ ASPDEN.

Signed in the presence of—
WILLIAM HINDLE,
HENRY HEATON.

The deposition of Rhoda Borton, (page 79.)

The deposition of John Gill, (page 87.)

The deposition of Samuel Nicholson, giving extracts from the minutes of the monthly meeting at Haddonfield, (page 687, original.)

The deposition of William White, (page 74.)

The deposition of Richard Chippendale, (page 110.)

The deposition of Job Packer, (on page 139,) is here offered to be read, which is objected to by the counsel for the defendants, and the court sustain the objections; plaintiffs' counsel except to the ruling of the court.

Letter from the testator, Matthias Aspden, to Andrew Aspden, (page 806.)

Letter from Matthias Aspden to John Aspden, (page 807.)

Letter from Matthias Aspden to Andrew Aspden, (page 808.)

Letter from Matthias Aspden to John Aspden, (page 799.)

Letter from Mary Aspden to Matthias Aspden, (page 809.)

Letter from Matthias Aspden to Andrew Aspden, (page 811.)

Letter from Margery Bailey to Matthias Aspden, (page 812.)

Letter from Matthias Aspden to Andrew Aspden, (page 814.)

Deposition of Thomas Redman, and deed of Matthias Aspden to Thomas Redman, (page 149.)

Letter from Matthias Aspden to Andrew Aspden, (page 815.)

12 Ruff, statutes at large, 227, restraining act, preventing trade of provinces. Id., p. 432, prohibitory act.

Letter from Margery Bailey to John Aspden, (page 816.)

Letter from Margery Bailey to Matthias Aspden, (page 817.)

Letter from Margery Bailey to John Aspden, (pages 819 and 820.)

1 Smith's laws, 449, attainder law; act of 31st March, 1781; act to prevent attainder of Rundle and Aspden, (page 154.)

Letter from Matthias Aspden to John Aspden, (page 820.)

Letter from Margery Bailey to John Aspden, (page 822.)

Letter from William Aspden to John Aspden, (page 822.)

Letter from Matthias Aspden to John Aspden, (page 824.)

Publication in the American Daily Advertiser, (page 855.)

Inventory of contents of Mr. Aspden's trunk, (page 851.)

Petition to the Privy Council, (page 859.)

Memorial to the Lords of the Treasury, (page 862.)

Letter from Matthias Aspden to Thomas Willing, as follows, to wit:

LONDON, *March 29th*, 1796.

SIR: Under date of the 22d ultimo, I enclosed you a certificate issued to James Bolland for $5,338 68, which I hope you will duly receive; and have herewith enclosed you another certificate of stock of the United States, No. 8066, dated State of New York, 14th of December, 1795, to James Codwise for $1,952 54, three per cent. stock, with a power from him to you to transfer into my name in the books at the proper office, which request you will be kind enough to do as before, and what further may be needful.

I am, dear sir, your obedient servant,

MATTHIAS ASPDEN.

To the hon. Thomas Willing, president of the bank of the United States, or president for the time being, in Philadelphia.

P. S. The power of attorney is filled up to transfer unto Matthias Aspden, esquire; the last word making a description, rightly understood where the fact is known, and may serve for mine, of an heir at law to an estate to bear the port of a gentleman, and in this sense or meaning the term can be objectionable under no form of government as common to all, and within the reach of many. But no doubt these things are settled with the bank, and to them it is left, the handwriting being the evidence of the person as all bills and receipts prove.

I have also enclosed you herewith a power of attorney to receive dividends on $10,277 71, three per cent. stock, and on all other stock standing in my name in the books of the United States at the proper office, or may stand. And also on all stock standing in my name in the books of the bank of the United States, or may stand. And to remit the same on my account by the first vessels sailing in November next to Messrs. Henry Hoare & Co., of this city, bankers, accompanied with a letter of advice to me, directed to their care, or to such house in London as the bank, for their greater security, may be in a settled correspondence for these purposes, accompanied, as before, with a letter of advice.

MATTHIAS ASPDEN.

April 2, 1796.

Letter from Matthias Aspden to Thomas Willing, as follows, to wit:

LONDON, *July* 25th, 1796.

SIR: Under date of February the 22d, I enclosed you certificate No. 8020 for $5,338 68, and under date of March the 29th I enclosed you certificate No. 8066 for $1,954 54, three per cent. stock United States; and also under date of May the 9th last I enclosed you certificate No. 3150 for 3 shares of the Bank of the United States, with powers to transfer and receive dividends on my account as they grow due, and other papers authenticated under notarial seal, containing matter of evidence

for the purpose of taking a case out of an act of assembly, and recovering a house, stores, and wharf belonging to me in Philadelphia, and a plantation in Newtown township, in the county of Chester, illegally seized and alienated under false pretences; to none of which letters have I been favored with an answer, but make no doubt of their getting safe to hand, and of the needful being done, and flatter myself I shall not be long without a line to acquaint me therewith.

As I have sent the above incontestible evidence to the bank touching the matter in question, and as several friends and relations to whom I have sent powers of attorney have declined acting, perhaps from the want of authenticated proofs to proceed upon, and there are still different considerations that will keep me in England some time longer, I can conceive no impropriety in sending to the bank a power of attorney to act for me in this particular case, which interests the public and also my heir-at-law, who has his right in this case, and cannot lose it; and hope they will not deem it any more, especially as they are in possession of funds, and as it will be attended with little or no trouble, further than to direct their solicitor or attorney to bring writs of ejectment which will try the right, and to pay the rents and profits into the bank; for which purpose I have here enclosed you a power of attorney, and request the bank will give immediate directions to proceed in the business, as the guardians of all rights and interests committed to their care, more particularly at this time, when the United States are without a chancellor—at least the State of Pennsylvania—to make the government perfect.

I am, dear sir, your obedient servant,

MATTHIAS ASPDEN.

To the hon. THOS. WILLING,
Philadelphia.

P. S.—The following persons in and near Philadelphia, if living, can attest my being in England in 1776:

John Warder, Magnus Miller, William Huddle, Judge Stockton, (State of Jersey,) Emanuel Walker, Mrs. Corrie, Joseph Wharton, Samuel Wharton, William Barton.

17 Statutes at Large, p. 766; 38 Geo. 3, ch. 50, sec. 8.

Letter from Matthias Aspden to Thomas Willing, as follows, to wit:

LONDON, *October* 4, 1800.

GENTLEMEN: I am duly favored with Mr. Henry Kuhl, assistant cashier's letter of the 7th August, in answer to mine of the 7th May last, enclosing you a certificate for $5,000 three per cents, and a bill on the Bank of North America for £376 2*s*. 4*d*., advising the former had been sent to New York to be transferred into my name, and would be transmitted as soon as completed, with another requested, in the hands of Mr. Thomas Morris, and returning the latter with protest, which assigns a reason given by the bank for non-payment that appears

to me rather inexplicable—will hope for the best, and that nothing hath or will be neglected to be done that should be done, although I cannot help considering it as something extraordinary I should yet continue without line from them.

I made inquiry here for the charter of the Bank of the United States, either to get a sight or purchase, and, had I been able to do either, I should not have given the bank the trouble of this bill, or wrote them they had my consent at their option to lay out the growing produce of my stock in certificates until further advice, or remit it as before. If the bank is restrained in the purchase of stock on its own account, I can conceive no good reason why they should be restrained on other people's account, although there may, locally, that I am a stranger to. As this bill did not come through the hands of a holder distinct from the drawer, it inclines me to conclude the bank's advice of non-payment with return of bill, without protest, would have been sufficient to revest the property again. This be as it may, I leave to yourselves, who can best judge, what is most regular in these cases.

I am, gentlemen, your obedient servant,

MATTHIAS ASPDEN.

To the hon. THOMAS WILLING,
President of the Bank of the United States,
or president for the time being.

Receipt for passage paid by Matthias Aspden, from Rome to Naples, (page 853.)

Passports to Matthias Aspden, (page 854.)

Letters from Matthias Aspden to the president of the Bank of the United States, as follows, to wit:

LONDON, *June* 18, 1803.

SIR: I here enclose you four certificates for $2,800, eight per cent., dated New York, Oct. 19, 1799, issued in the name of Condere, Brants & Changuijon, of Amsterdam, to wit: No. 299 for $400, No. 298 for $1,000, No. 300 for $1,000, and No. 297 for $400, with a power of attorney to enable you, or such person as you may appoint, to transfer the same into my name, which I request you will do, and take out other certificates for me in lieu thereof to amount of same in like sums, and keep them safe in your possession until futher advice from me, for the reasons mentioned in my last, only advising me per the first direct conveyance that the transfer has been made, with the number of the certificates issued in lieu, directing me to again, as mentioned in the same, and you will much oblige, sir,

Your obedient servant,

MATTHIAS ASPDEN.

To the president for the time being of the bank of the United States.

LONDON, *August* 24, 1804.

Sir: I herewith enclose you certificates of the United States loan

office, State of South Carolina, for $2,500 eight per cents, in the name of James Warrington, of Charleston, to wit: No. 43 for $1,000, No. 44 for $1,000, No. 38 for $400, and No. 60 for $100, with which I request you will do the needful, and get them transferred into my name without delay, and send me three others in lieu, to wit, two of $1,000, each, and one of $500, directed to me to the care of Henry Hoare & Co., bankers, London, and which I hope will be attended with no further expense than can be avoided, as I have not higgled for them through my broker to get them below the current price, as many might, feeling indifferent to the interest of the United States, and welfare in general.

I wrote to you on the 28th ultimo, per the Pigon, acknowledging the receipt of Mr. H'y Kuhl, assistant cashier's letter of the 20th April last, enclosing me certificate for $4,800, three per cents, and $4,700, eight per cents, and further advising that the certificate for the $800, the remaining sum sent out, and transferred into my name, would be sent me as soon as received from the proper offices, which I continue without, and am become anxious for the receipt; doubtful, from the time that has elapsed, some accident has happened to them.

I have trusted in my last the bank makes no objection to lay out the amount of balances in its hands, or part, as may be directed, particulary of those who are of the company and creditors of the United States, whose dividends they receive and pass to account in the purchase of more stock on their account, as I have desired; otherwise it would be a contradiction, and injurious to the interests of the bank, and to the people of the United States in general, as it is common for the private banks to do this for their customers here, and some without a commission; and what the Bank of England might adopt a mode of doing here, through its brokers, were they properly disposed to consult its interests and public in general; in which light, as I have trusted, I hope it has or will be seen.

I am, sir, your obedient servant,

MATTHIAS ASPDEN.

To the president for the time being of the Bank of the United States, Philadelphia.

LONDON, February 12, 1805.

SIR: The Active, Jones, having arrived out at Philadelphia the 24th of October last, per Lloyd's list, I am disappointed. I am without a line from the bank, per any of the late arrivals from thence, acknowledging the receipt of a package I sent per that ship, enclosing the bank $2,500 eight per cents to do the needful; nor by the December nor January mails, the last arrived the 5th inst., advised me of this being done and others sent me in lieu; which makes me a little uneasy least something may not be right, or some accident may have happened, and has discouraged me from becoming a further interested creditor per this conveyance, as I had thoughts, including I was not without some

expectation the amount of the balance of freight and demurrage, and interest thereon, £551 11 currency due to me from James Mackenzie & Co., mentioned in a former letter, (with the sale of stock here to any amount, perhaps I might not be permitted, at least of India stock,) which I understand would only be allowed for the specified uses. But I have been much disappointed, having applied to no less than five different attorneys, three excusing themselves from the statute of limitations, the fourth that proof might be wanted from the strictness required, although of this I have sufficient; 1st, with respect to the balance of freight, from a letter to me at Bristol, to the care of Lanslot Cooper & Co., of the 7th January, 1777, enclosing a bill on Davies, Strachan & Co. for £18, for a mistake of ten half joes in the freight in part shipped by the ship, which acknowledges a balance to be due of freight, &c.; and with respect to proof on the head of demurrage, the dates of entry, first at Cowes, and then at Southampton, are sufficient, at least for 20 days before the bulk was broke the second time. The fifth attorney, secretary to the society for protecting trade against swindlers, without urging any thing in excuse, told me in a few words, rather arbitrarily, he did not choose it. I told him if he did not choose to undertake it I could not compel him; but admitting this to be optional, as I had no remedy but under the treaty of peace with America, if there was justice in it a refusal was abetting a felony; and that there was this the thing speaks for itself, as it was for the laborer's hire, hardly earned, and justly due. And so might have been used with respect to all the property I had in England, (ships excepted,) that had centered there from the obedience rendered to prohibitory act, (in belief,) and as required under the penalty, the latter absolutely charging the King with all damages in consequence; nor was I without mistrust that these extremities might be gone to before I left America, as it was in their power, and for some time after my arrival in England, the conduct of the parties since have sufficiently shown, who were merely correspondents in doubtful circumstances, that my suspicions on this head were not unfounded, and will appear compulsive enough for my coming to England, independent of the want of a sufficient support, and other local causes; and might have well excused their exacting me back again, if they had either sense or feeling, in the wanton, unfounded, and ungrounded manner they did, or any other.

I have to remind the bank that they have not been correct in my description in the last certificates sent me, from what was before them; wish in this they would not be unmindful and attended to, as it tends to strengthen the test of signatures and remove doubts.

I am, sir, your obedient servant,

MATTHIAS ASPDEN.

To the PRESIDENT of the
Bank of the United States, North America.

The following are the numbers and amount of each certificate sent the bank, under date of the 24th of August last, per the Active, Jones,

for Philadelphia, issued from the loan office of the State of South Carolina, in the name of James Warrington, of Charleston, March 9, 1804, viz:

No. 43,	for - - - -	$1,000
No. 44,	" - - - -	1,000
No. 38,	" - - - -	400
No. 60,	" - - - -	100

LONDON, July 8, 1805.

SIR: It escaped my memory, by this ship out, to acknowledge the receipt of Mr. Henry Kuhl, assistant cashier, of the bank's letter of the 29th August last, advising me of certificates being sent to Robert Robson, notary of this city, for me, for the $800 remaining of the $2,700 eight per cents forwarded the bank the 12th January, 1804, to transfer into my name, which was delivered to me soon after the 11th December last, the date of the post-mark on his letter, paying him (Mr. R.) 15s. sterling, including his and bank's charge. Since, by the return of this ship, I have received his letter of the 17th May last, advising me of his having sent to Mr. Robson certificates for $2,500 eight per cents in lieu of those I enclosed the bank the 24th August, 1804, to transfer into my name—a delay that has made me uneasy, apprehensive of some disappointment, and a disadvantage in other respects; the same has been delivered to me, paying him £1 15, including his and the bank's charges.

I concluded, when I sent my first eight per cent. in June, 1803, that the second power I sent was sufficiently general to receive my dividends on my three per cents, and the dividends on all other stocks standing, or hereafter standing, in my name in any of the loan offices of the United States, as it was my intention, and directions given to the notary accordingly, and so concluded it was, on sending my subsequent eight per cents, particularly from the matter being mentioned, and this answer given on sending my last; at the same time the notary had shamefully neglected to refer, as he should, to his register to see, and to this trusted, as the bank may conceive from the way in which I desired the bank to remit my dividends, particularly in my letter of July last—in the payment of which to the bank from this letter the loan office or Treasury would be very safe, as it was sufficient evidence of trust and authority; and to that letter and my second power request the bank more minutely to refer, especially as I am and likely more to suffer—and might well, at this distance, for a while with the bank dispense with more form. I propose sending a power, and may enclose it in this letter; but should I not, I hereby authorize the president for the time being of the Bank of the United States, by virtue of the same, to receive the dividends on all stock of mine, of every description, standing, or may hereafter stand, in my name, in any of the offices of the United States, wherever paid, until I do or am there in person, so to do myself; and, as my signature will test this letter, I know no better authority the bank can have for this purpose.

With respect to my dividends, the bank will exercise its discretion in either remitting them in bill, or, as the sum will be large, and as I am £55 16 10 sterling still short of my dividends to October, 1799, in certificates to their correspondents, or to myself, to the care of Henry Hoare & Co., of this city, bankers—which will be the most agreeable to me, and may be a convenience to the bank.

From the melancholy loss of the Jupiter, I may congratulate myself from the escape I have had. I did not embark in her, as I was prepared, and proposed going to New York, and most likely had the captain shown the civility to call on me to know if I had any commands, or was going there myself.

I have at this time given up the thoughts, when the embargo is really off, if this should be, from the bounties and hot pressing there has been, and likely to be, before September, unless the half manned vessels from it that may be going should discourage me, as I should not like to pay my passage and work it out too—a landsman that can't walk a deck, and is so near-sighted that can't see his hands before him in a night that is dark. Twenty or twenty-five years ago these difficulties might have appeared less formidable, when my views were rather more worldly than they are at present. I shall, therefore, as I am circumstanced, take the liberty to consult at least opportunity, if not time; and with the just and legal claims I have, I will venture to inform the good people of America, through bank on the Crown here, of £45,055 15 1 sterling, for losses incurred under the bill of pains and penalties, (or *Prohitor* act)—a claim that stands on that ground that interests every orderly government both in Europe and America.

I shall write to Mr. Morris, which I have several times proposed to do, but now-a-days we meet with so many people in person and face so much alike, and in double and treble so many places, that it is difficult to know which is the man, or where the man really is. I shall, nevertheless, write to him, as I have done before, and trust by my letter will find him in Philadelphia, and not in Wales, and request him to deliver the certificate to the bank. In sending powers to the bank, I have consulted the public interest, and also the bank's as united with it. Private reasons have also moved me to it, which gives, and will always give, the bank a value.

Messrs. Henry Hoare & Co., bankers of this city, bought for me, on the 21st ultimo, $3,000 eight per cents, whom I desired, on doing the needful, to forward to America to be transferred into my name, and others returned for me in lieu thereof. They are issued from the United States loan office, State of New York, in the name of Robert Henderson, esq., of Claughead, in the county of Dumfries, North Britain.

I am, sir, your obedient servant,

MATTHIAS ASPDEN.

To the PRESIDENT for the time being of the Bank the United States, Philadelphia.

P. S. I opened a few days ago at Henry Hoare & Co's, at their request, for the purpose of making our entry of the same again, and particulars, different packets, containing a warrant for three shares in the Bank of the United States, and certificates for $5,000, six per cents, and $12,291, 22 three per cents, which has been laying there some years, left at different times, the latter showing the certificate for $2,986 49 is, with Mr. Morris, from the bank having been remitting me dividends on $15,277 71 three per cents till July, 1803. They remain in further care, where it is probable I shall leave the certificates I have in my possession, amounting to $4,800 three per cents, and $8,000 eight per cents, sent me since 20th April, 1804.

It has often suprised me I have not heard from the Bank of North America on the subject of a note for £254 3 currency, I endorsed to the bank in December, 1791, which made it perfectly a chose in action. M. A.

Note from Matthias Aspden to Captain McDougall, Captain McDougall's answer, and memorandum on it by Matthias Aspden, as follows, viz:

Note following, left for him at the bar of the Pennsylvania Coffee House.

Mr. Aspden will be glad to see Captain McDougall at No. 5, Orange street, Red Lion square, for whom may probably have some commands. Is seldom out in the morning before 10 o'clock. If it suits him, will be glad he will come and breakfast with him about 9 in the morning, or come and take coffee with him about 7 in the evening, July 8th or 9th, 1805.

Copy of note sent.

Mr. Aspden, sir: I received your polite note yesterday; shall be happy in executing any commands you may have for me. I am generally to be found at the New York Coffee House about 3 o'clock in the afternoon, or in the morning at 9.

I am, sir, yours, truly,
JOHN McDOUGALL.

Tuesday morning, N. Y. Coffee House.

It was sufficiently known, from Captain McDougall's ship being up at the Pennsylvania Coffee House, that he should be to be seen there, where Mr. A. has asked for him. But whether to be seen there or at the New York Coffee House, a coffee house he does not much frequent, was not material, as he lives centrical for London for a note by the two-penny post to inform him; and can't avoid remarking here, that there was an indifference and inattention in it in not calling himself instead, far from commendable, or encouraging, in the instance of an old benefactor in his line, either to ship or take passage with him. As this last was the

business he wished to see him upon, he very justly adds, there was no place so proper as his own apartments for that purpose—both on his own and Captain McDougall's account.

To a journeyman coachmaker, shoemaker, or tailor, no doubt to see him, the coffee house or his own ship would suit them the best, and might Captain McDougall.

Was going to return this answer, but thought, afterwards, it would be more useful if he got it in America.

The bank will here see what an uphill work it is with me to get to America, after the experiences I have had, trial made, and but little to induce me now to go, and much to induce me to stay, except being over-burthened with the visits of loving friends, bishops, and cures included, and much the case since shortly after arrival in England, and tantamount to an order out, and so understood, if there had been any help for it, and as the little Misses are ruled in keeping up their visiting acquaint and *strangers* in staying abroad.

Forwarding copy of the original per the London packets, I just pass this with it for the instruction of friends.

Letters from Matthias Aspden to the President of the Bank of the United States, as follows, to wit:

LONDON, *December* 31, 1805.

SIR: I wrote to the Bank of the United States the 8th July last, giving the president, for the time being, authority to receive the dividends on all stock standing in my name in any of the loan offices of the United States for my use, to be applied as therein advised, which I hereby confirm, trusting, as my signature will test this letter, it will also test that and their authority here again renewed for that purpose. Since which I have been without a line from the bank, but flatter myself with hearing daily, and that the authority given under the test of my signature for the purpose mentioned will be found sufficient.

I have lately bought the following certificates to the amount of $2,000, funded debt, eight per cent. of the United States, to wit, No. 1252 for $400, No. 1253 for $400, No. 1241 for $100, No. 1242 for $100, No. 1254 for $400, No. 1255 for $400, No. 1243 for $100, and No. 1244 for $100, all standing in the name of Robert Henderson, esq., of Claughead's, county of Dumfries, North Britain, in the United States loan office, State of New York, under date of the 26th May, 1804, signed James Nicholson, commissioner, which I take the earliest opportunity to forward to the bank to get transferred into my name, with two powers of attorney for that purpose from the said Robert Henderson, and to take out two other certificates in lieu thereof in my name, and hold the same in their safekeeping, for my use, until further advice, informing me of the same by a line as soon as effected, directed to me as before. The powers of attorney are both dated Claughead's, county of Dumfries, North Britain, October 23, 1805, and drawn up by William Laidlaw, notary public.

I am advised by Mr. Morris, under date of the 16th September last,

of his having delivered to the bank the certificate he had of mine, No. 2473, dated September 2, 1795, for $2986 49, three per cents, agreeably to the request of my letter to him, and which I had wrote to the bank to apply for; the expense of transfer he leaves to me, without mentioning what it was. This small expense, as the bank's charge was no great matter then, I concluded the bank might or would settle, as connected with the delivery of the certificate, and request, should Mr. Morris apply, as I have desired, the bank would adjust and pay it, and add it to the cost of transfer of these certificates.

For news, I beg to refer the bank to the public prints, which have lately held out a very melancholy picture of the distresses in Germany.

I am, sir, your obedient servant,

MATTHIAS ASPDEN.

To the PRESIDENT, for the time being, of the bank of the United States, Philadelphia.

(Copy.)

Original of the remittance via New York.

LONDON, *January* 3, *year of our Lord* 1806.

P. S. I would just remind the bank I continue without any remittance of the balance of £55 16 10, due to me for dividends to the 1st October, 1799. Where it stops I don't know, but from the silence observed by the brokers about the change when mentioned, I am rather inclined to think I am alone here. I was informed yesterday at Henry Hoare & Co., bankers, that they had received for me three certificates of $1,000 each, in lieu of the $3,000 eight per cents. they had bought for me, and sent out to be transferred into my name; and also certificates for $2,986 49 three per cents., which I conclude to be the certificate I desired Mr. Thomas Morris to deliver to the bank, and had forwarded agreeably to my request, that they had put with my other certificates entrusted to their safekeeping, although nothing mentioned of any more. I trust the bank has not omitted to receive my dividends and applied them in the purchase of certificates as desired.

My affairs here are weighty, and with other things of moment, make it not so easy for me to move as those who have their all in a wallet over their shoulder, and a good trade or calling at their finger ends.

M. A.

LONDON, *January* 12, 1807.

SIR: I am favored with Henry Kuhl's, assistant cashier's, letter of the 19th September, and duplicate thereof, advising me of the transfer into my name of the following certificates for $700 eight per cents., to wit: No. 1,933 for $400, and Nos. 2,940, 2,941, and 2,942 for $100 each, at the loan office of Pennsylvania, under date of the 15th September, 1806, received under cover of my letter of the 21st June last,

which remain in the bank's care until my further orders. And also his letter of the 25th October, advising me of the receipt of a power of attorney from me under
until this is done, of which I left early notice at the office of the American consul. As is also the sheriff or mayor's office, not having recovered my demand on James Mackenzie & Co., noticed in a former letter, which may be said to be highly qui tam. on both sides the water. If it had not come under the treaty of peace with America, and as I can learn no satisfactory reason for it, the office appears to me to be very culpable for its neglect in this respect. If it does not charge it with the debt and damages due to me, the latter ought to be ample to make amends, if this could be done; nevertheless, as far as a jury can give, I should by right recover, both on my own and the public account.

I am, sir, your obedient servant,

MATTHIAS ASPDEN.

To the PRESIDENT, for the time being, of the Bank of the United States, Philadelphia.

Deposition of William Jefferies, (page 349.)

Henry Nixon's account as follows, to wit:

Henry Nixon, executor, in account with the estate of Matthias Aspden, deceased.

DR.

1824.	The executor charges himself with the following sums received by him, viz:	
Nov'r 24	Amount of certificates of United States three per cent. stocks, paid off	$68,632 01
	United States 7 per cents, stocks paid off	10,000 00
	Twenty shares of the stock of the Bank of the United States	2,000 00
	Cash for back dividends, and balance of cash in hands of S. Girard, banker	5,025 14
1831.	Pennsylvania 5 per cent. stock, redeemable in 1850, received from Timothy Wiggin, of London, as per his acc't December 11, 1830	70,000 00
	Pennsylvania 5 per cent. stock, redeemable in 1854, received from Timothy Wiggin, of London, as per his acc't of December 11, 1830	47,000 00
	Pennsylvania 5 per cent. stock, redeemable in 1858, received from T. Wiggin, of London, as per his account of December 11, 1830	17,000 00
	United States 4½ per cent. stock, received from T. Wiggin, of London, as per his account December 11, 1830, paid off	11,670 08
	Three hundred shares of the stock of the Bank of the U. States, received from T. Wiggin, as per his account December 11, 1830, $100	30,000 00
	United States 5 per cent. stock, received from T. Wiggin, of London, as per his account of July 26, 1832, paid off in Boston	31,000 00
1832.	Bill of exchange on T. Wiggin, of London, for— £6,000 sterl'g, sold for	29,618 90
	Do. do. 6,000 do. do.	29,526 00
	Do. do. 2,000 do. do.	9,819 83
	Do. do. 1,802 15 8 do.	8,631 73
1832.	Interest on loans, dividends on stocks, &c., as per account annexed, to December 31, 1832	42,829 66
		$413,053 35

CR.

The executor claims allowance for the following sums paid by him, viz:	
Cash paid Asher Hartley, a son of Benjamin Hartley, his legacy	$266 67
Do. paid Rebecca Burroughes, a daughter of said B. Hartley, her legacy	266 67
Do. paid Bathsheba Brick, another daughter of said B. Hartley, her legacy	266 67
Do. paid William Hinchman, a son of Anne Hinchman, dec'd, his legacy	266 67
Do. paid Joseph Hinchman, administrator of James Hinchman, deceased, (who died after the testator,) a son of Anne Hinchman, his legacy	266 67
Do. paid Elizabeth Brick, a daughter of Benjamin Hartley, her legacy	266 67
Do. paid sundry expenses of management, proving will in Philadelphia, charges incident thereto, powers of attorney, and fees to lawyers, as per account	783 51
Do. paid premium on $8,836 84 United States 6 per cent. stock, invested and since paid off	163 16
Do. paid on city of Philadelphia 5 per cent. stock, invested $5,000	263 12
Do. paid printing and paper for statement of auditor appointed by the court	73 81
Do. paid Th. I. Wharton, esq., auditor, as per his bill	348 62
Register's fees paid on this account, sending papers to the court, &c	30 00
Commissions on $413,053 35, at 5 per cent	20,652 66
Balance	389,138 45
	$413,053 35

The executor, being duly sworn, says, that this account, as it stands stated and settled, both as to the charge and discharge thereof, is just and true, to the best of his knowledge and belief.

H. NIXON.

Sworn and subscribed before me, December 24th, 1833.

J. B. SEWALL, *Dep. reg.*

CITY AND COUNTY OF PHILADELPHIA, *ss.*

I certify the foregoing to be a true copy of the original account, as filed in the register's office, for the city and county of Philadelphia.

Given under my hand and seal of office, this first day of January, A. D. 1833.

[L. S.]

J. HUMES, *Register.*

Henry Nixon, executor, in second account with the estate of Matthias Aspden, deceased.

DR.

1832.			
Dec'r	31	The executor charges himself with the balance of account rendered and filed in the office of the Register of Wills, &c.....	$389,138 45
1833.			
Jan'y	10	Dividend on stock in Bank of the United States.....	1,120 00
Feb'y	4	Interest on Pennsylvania 5 per cent. stock, due 1st inst.....	3,350 00
July	5	Dividend on city of Philadelphia 5 per cents.....	125 00
"	10	Dividend on stock of Bank of the United States.....	1,120 00
Aug.	5	Interest on loan to Union Canal Company (scrip).....	60 00
		Interest on notes discounted on collateral security.....	1,890 76
		Interest on Pennsylvania 5 per cents.....	3,350 00
Dec'r	27	Interest on loan to Union Canal Company (scrip).....	90 00
		Interest on loans discounted on collateral security, due 8th of January and 8th of April, 1834, included in the notes.....	12,190 84
			$412,435 05

CR.

1833.		The executor claims allowance for the following sums paid by him:	
Oct'r	13	Thomas I. Wharton, auditor, his account paid by order of court	$57 20
		Warder & Brothers, for amount of expenses paid by J. Camelford, of London, January 26.....	18 52
		Thomas Kite, for printing documents.....	27 16
Dec'r	27	Childs & Inman, per order of court.....	6 00
		Power of attorney to C. C. Biddle.....	1 00
		Postage estimated.....	3 00
		Fees to counsel.....	500 00
		Mr. Newbold, per order of court.....	20 00
		Commissions 5 per cent. on this sum, $23,296 60, received since last account.....	1,164 83
		Register's fees, and fees of orphan's court.....	9 69
		Balance.....	410,627 65
			$412,435 05

The executor being sworn, says, that this account, as it stands stated and settled, both as to the charge and discharge thereof, is just and true, to the best of his knowledge and belief.

H. NIXON.

Sworn and subscribed before me, December 28, 1833.

J. B. SEWALL, *Dep. reg.*

CITY AND COUNTY OF PHILADELPHIA, *ss.*

I certify the foregoing to be a true copy of the second original account, as filed in the office for the city and county of Philadelphia.

Given under my hand and seal of office, this first day of January, A. D. 1834.

[L. S.]

J. HUMES, *Register.*

Deed, dated April 5, 1726—William Kelly to Matthias Aspden, of the city of Philadelphia, shopkeeper.

Deed, dated August 27, 1726—Benjamin Duffield to Matthias Aspden, of Philadelphia, shopkeeper.

Deed, dated 17th February, 1745—Timothy Matlack to Matthias Aspden, of Philadelphia, merchant.

Deed, dated October 14, 1748—Samuel Mickle to Matthias Aspden, of Philadelphia, merchant.

Deed, 1748—John Hinchman to Matthias Aspden, of Philadelphia, merchant.

Deed, dated June 6, 1744—John Hyatt, sheriff, to Matthias Aspden, of Philadelphia, merchant.

Deed, dated March 14, 1748—Matthias Aspden, of the city of Philadelphia, merchant, to Henry Harrison and Mary, his wife, daughter of Matthias Aspden.

Deed, dated May 23, 1750—Thomas Lawrence and others to Matthias Aspden, of Philadelphia, merchant.

Nathan Kite, affirmed.

I have the records of the Philadelphia Monthly Meeting. I have the original paper—the order granted by the Committee on Interments. Paper read:

"PHILADELPHIA, 22, 8 *mo.*, 1765.

"Isaiah Bell, let Matthias Aspden be buried in Friends' ground, aged about seventy-three years."

I have the original order for interment of Abraham Liddon. Paper read:

"PHILADELPHIA, 8*th mo.*, 7*th*, 1810.

"To JOHN CHAPMAN: On receiving the certificate required by law, inter in Friends' burial ground the body of Abraham Liddon, aged about seventy-five years.

"JONATHAN WILLIS,
"CALEB CARMALT."

Abraham L. Pennock, affirmed.

Am a grandson of Abraham Liddon. He died in 1810, aged near seventy-five. I knew Matthias Aspden, deceased. The first time I saw him was some time after my grandfather's death; he was inquiring for him—had not heard of his death. He came into the house, and expressed feeling for the loss of an old friend. My grandmother was alive; she died 7th month, 11th, 1815. My great-grandfather Liddon died in the minority of his son, Abraham Liddon. I suppose he died young. My age is sixty-two. Matthias Aspden frequently came to our house and took tea; had long conversations with my grandmother. I delivered to him a box of papers belonging to him, which came from my grandfather, and belonged to him.

Cross examination.

I think this was a few months after the death of my grandfather.

John Hockly, affirmed.

I am cashier of the Bank of North America. This is the original book of special deposits in the bank. This account is taken from the bank ledger, commencing 27th September, 1791. M. Aspden drew, on 28th March, 1817, for $2, and left $1 43, which was paid to Mr. Nixon. This is a book of articles left for safekeeping, and they appear nowhere else. Now, we receive none but resident depositors. The receipt for the trunk is in the handwriting of Mr. Drinker, cashier, and signed by Matthias Aspden.

Account with the Bank of North America read.

Letter from Matthias Aspden to Daniel Clymer, dated October 5, 1805.

Charles Edward Catherall, affirmed.

My mother is niece to Mr. Aspden. I have no interest. Her father's name was Kay; her mother's name was Hartley. I knew the testator; In the spring of 1817 he was a very frequent visitor at my father's house—I may say almost a daily visitor. My father resided at 190 Chestnut street, near 8th. I visited Mr. Aspden, then at Yohe's hotel, Market street, below 8th, south side. Upon one of his visits at my father's, he told me he had some writing for me to do. I called upon him at the hotel, when he gave me a lengthy manuscript to copy, and twenty-five cents to buy paper for that purpose. After finishing the writing, I took it to him. I then read the original writing, and he examined the copy. He then deliberately asked me my name. I told him Charles E. Catherall, which he was very particular in taking down, and having right. He said he was anxious to get his business settled, for it was his intention to lay his bones in America. Upon leaving him, he gave me a bank note, which I found to be a one dollar note on the Bank of North America. My father's name was Dr. Isaac Catherall. I very frequently accompanied testator to various parts of the town, to George Harrison's, and to the Bank of North America. I recollect having a particular conversation with him at the corner of Fourth and Chestnut streets. It might have been about some trunks. The name of Matthias Aspden is very particularly known to me, and by character, from papers and books being in my father's house. While there, I showed him a ciphering book, which he acknowledged to be his. I think the book was dated in Philadelphia. It was written in a very bold hand, and signed by him in a great many places. I have seen Mr. Aspden write. I should say this was his handwriting, and I should think the sized paper his manuscript was on. I should say they were both his handwriting, and written hurriedly. I believe that also to be his handwriting. My age is forty-seven. I was then between sixteen and seventeen. I was an apprentice to the

dry-goods business to John and Isaac E. Elfreth, Market street, below 5th. I was, I think, at that time secretary of the Good Intent Hose Company. I was a member. The one dollar note was red.

Question by a juror. I think the printing was red.

Cross examined. I have seen Mr. Aspden often write. I have seen him at Yohe's hotel, on my visits, and very frequently before that. He wished to be particular with my name. I have walked arm in arm with him round the city. I was six feet when I was sixteen years of age; I was quite as tall as Mr. Aspden. This was in the spring of 1817; he visited until his departure. I don't recollect. He was about to depart about that time.

Paper dated November 29, 1816, shown by defendants.

That paper is in the writing of Mr. Aspden.

Paper addressed to gentlemen of Senate, marked A.

Witness states the signature to be in Mr. Aspden's handwriting; don't know the handwriting in the body of the paper. When I saw Mr. Aspden last, I know there was no fire in his apartment. He was about going when this paper was copied; don't know how he went; don't recollect that he started from here to go to England or to Canada; never heard that his going to England was a matter of surprise to the family; it is very foreign to me. The papers came into my father's possession through James Hartley; the first bill of lading I ever saw was Mr. Aspden's; the papers were not kept with any care; they were burnt from time to time. The only book I have is a receipt book of Samuel Jacobs; the first receipt is 1748; the last 1756. I kept no memorandum of the conversations had with Mr. Aspden; I recollect repeating to Judge Hopkinson one of the conversations, when he said, "young man, is it possible you know any thing about him?" he was a judge then; the conversation had was when he was off the bench; I was a juryman; I was in the habit of being summoned as such; this, I think, was after 1828; we were speaking of the Aspden case; I repeated no conversations, only that I had known the testator, and had done some writing for him; I recollect repeating the conversation to David Paul Brown, about two years ago, when he resided in my neighborhood.

Memorial of Matthias Aspden to Congress, proved by C. E. Catherall, dated Philadelphia, December, 1816.

Memorial of Matthias Aspden, the testator, to the House of Representatives of Pennsylvania, dated November 29, 1816. (This memorial has been mislaid since the trial, and although diligent search has been made, it cannot be found. It is a duplicate original of the memorial of the Senate, (on page original,) addressed to the "House

of Representatives" in place of the "Senate," and dated November 29, 1816.)

Admitted that Matthias Aspden died in London on the ninth day of August, 1824, and that George Roberts, one of his executors, died September 17, 1801, aged 64 years.

Joseph Roberts, sworn.

I was first teller in the old Bank of the United States. This is a copy of the account of Matthias Aspden with that bank, and continued until the fourth of March, 1811, when the charter expired. There was then a balance of $12,039 40 due to Mr. Aspden. This remained in that bank until the 19th December, 1815, and then it was withdrawn, and an account opened with Stephen Girard, banker, by placing in his bank the said sum of $12,039 40. I was an officer of that bank. These accounts I have copied from original books. This account continued until 31st August, 1817; balance then $361 89, which, in January, 1825, was paid to Henry Nixon, esquire. Mr. Aspden owned ten shares on the old Bank of the United States, on which Mr. Girard received the dividend on the 16th of May, 1816, as attorney of Matthias Aspden, and on same day deposited to his credit. 1817, April 7, Mr. Aspden himself received $160, the first extra dividend, and deposited it the same day. The yearly balances appear.

Cross examined.

I don't know whether the power from Matthias Aspden to Stephen Girard was solely to receive dividends.

Defendants' testimony upon the trial.

And upon the trial of the said issues, the said defendants give in evidence in support of the issues on their part the following, to wit:

The deposition of James Davis, (page 697, original.)

The deposition of James Gruby, (page 700, original.)

The deposition of Timothy Wiggin, (page 702, original.)

The deposition of Brown Collison, (page 704, original.)

The deposition of Mary Poole, (page 706, original.)

A list of stockholders in the East India Company, (page 716, original.)

The charter of the East India Company, 13 Geo. 3, ch. 16, sec. 6.

List of the proprietors of the Bank of England who are qualified to vote, dated 1799, 1803, and 1815, (page 716, original;) also charter of the bank.

Letter from the testator, without date, (page 826.)

Letters from Jos. Harrison to testator, (pages 435 and 442.)

Letters from testator to Abraham Liddon, (pages 509, 510.)

"Short narrative of facts," (page 624.)

Deposition of Bersheba Thompson, (page 78.)

And a memorial of the testator to the Senate of Pennsylvania, with a list of debts and bonds accompanying it, enclosed in an envelope, delivered by the testator, in 1816, to Benjamin R. Morgan, esq., who was at that time a member of the Senate of Pennsylvania from the city of Philadelphia; which memorial, account, and envelope are in the words, and figures, and of the tenor following, to wit:

GENTLEMEN OF THE SENATE:

The subscriber respectfully requests to represent here to the Senate, as he has done to the Assembly, a claim he has on the honor and justice of the State respecting the illegal seizure of his real estate, in possession in 1782, under a false and vicious attainder with respect to any power the State had over him from the time he left America, or as to any offence declared to be treason of which he was, could, or intended to be guilty—(absent upon duty, qui tam.)—and this in the face of evidence, written and parol, as was declared. He has understood to the commissioners for seizing forfeited estates previous to the seizure of his, and could be shown and proved by his attorney, his half-brother, James Hartley, merchant of Philadelphia, and others there; and the same may be said, in effect, of his personal estate, as it barred, on that account, those indebted to him from making payments, and himself from recovering of the same by law, and was further aggravated and injurious to him from his attorney being on the spot to answer for him, he himself being gone, at great hazard, to Europe upon duty qui tam., on or about 19th September, 1776, forced thereto a minor from being obliged to send his vessels to England—two valuable and burdensome cedar-built ships, and a brig of about 1100 or 1200 barrels—for any protection that could be given them, or insurance made on them in or out of port, under that merciless bill of pains and penalties, called the prohibiting or starvation act, that they might not be taken and burnt in port, or on any lawful voyage at sea, if found at either place after date, if that alone could constitute any offence, and from other large concerns in doubtful hands in Europe. He represents to the House, that, in consequence of the seizure of his estate under this false and vicious attainder, and other causes resulting from occurrences in England that would not have reached him but for this attainder, as more fully stated in the annexed papers addressed to Congress and the trustees of the late Bank of the United States, respecting claims on them to which he refers, he has been kept in exile and grievous suffering near forty years—the whole prime of his life; that his father, Matthias Aspden, of Philadelphia, merchant, died there in the year 1765, when about eight years old, but of this can find no *no* record, believing himself then to be fourteen from what he has heard others say, who left him one of the executors to his will; and in the year 1769, or rather before, he became the only acting person under it, and in the year 1770, thinking himself of age, he was led to embark in trade, principally in the shipping line, and will account for his being in the power and at the mercy of the British. In this he was successful, and might

reckon his business lawful and highly beneficial to the country, a d some individuals in particular, from his imports, at £5,000 currency a year, and likely to improve from the increase of his capital and dear-bought experience gained, not the like before in a youth that did not succeed to an established trade of this or perhaps of any other country. He further requests to represent to the House, that, while on board the Swallow packet for the purpose of going to England, then in New York, being between the latter end of March and the latter of April, 1776, with the consent of the Committee of Safety at New York, and also Governor Tryons, and laying head-and-point in a cabin in the steerage with a young man of this city going to Halifax, the great cabin and two state-rooms empty, his servants indented and hired was parted with, and house rented by his attorney to a person that only paid him about £13 from that period to the time it was seized in 1782, although for a great part of the time, he has understood, it would have rented for £300 a year. Governor Tryon breaking his word with him in requiring an odious and obsolete oath, to be taken neither applicable to place nor time, and which he had no right to do, and which he was not free to take, obliged him to return again to Philadelphia. His private view in this wanton and oppressive conduct, on the packet's sailing, he is inclined to think that he either wanted money or wished to favor persons in England largely indebted to him, one of whom was in a trust for him, or some of his family, on whom he could not safely draw, nor did they allow him interest on the sums they owed him until after he got to England, yet, has some reason for thinking they were well worth that to them; he intended to have gone to England in his last ship that sailed on the 10th Sept., 1775, but not arriving, as expected, he had given it up some weeks before she did arrive, and all preparation for the purpose; this delay arose from the base conduct of a house at Cowes, to which he had consigned her, in making a store-house of the ship their own time, and neither allowing the ship the freight due, nor the captain the amount of demurrage, and from what he conceives to be their view in it would entitle him, all sufferings and disappointments duly considered, to £10,000 sterling damages, and his heir-at-law in England to £5,000 from the chance he has lost of taking his estate and rights entitled to these from inheritance. If right to country goes by date, not to trespass *to* long on the time of the house, he has been as brief as he could in stating his case, and hopes it will be clearly enough understood by them, and found sufficient in form, and that the house in their wisdom and justice will be pleased to allow him the amount of his claim as stated below; and but poor amends he may say, all things considered; and not suffer any unworthy advantage to be taken of his oppressed situation, and the unprotected state of his floating property, as in trust for others he must have done the same with respect to it, in the indiscriminate taking and destroying of which wherever found after date, the State was aimed at as well as himself, for the purpose of ruin and distress.

The taxes on his real estate were paid by his attorney until it was seized, and absentee fine for a part of the time, although absent upon duty and qui tam., so it were things understood, perhaps for serving for nothing, as he did, on juries special and grand, a minor some years before the first American "war."

To this representation, with all respect to the house, I have here signed my name.

MATTHIAS ASPDEN.

List of debts and bonds taken from my ledger that appear to be owing to me.

Bills and notes and sundry persons, including interest per annexed statement - - - -	£710	4	1
Willm. Bradford, insurance broker of Philadelphia -	747	4	11
Thomas and Isaac Wharton, do -	820	12	0
Bond - - - - - -	1,067	5	4
Debts in Hispaniola - - - - -	545	11	7
James Mackenzie & Co., of Cowes, agents, to Willing, Morris & Co., and as such answered for the debt - - - - - -	699	7	3
Josh. Shewell, for rent per settled account - -	1,321	18	8
Joseph Harrison, of Philadelphia - - -	910	19	8
Joseph Rice advanced him in London, in the needful time of trouble, a prisoner of war lately discharged	95	16	4
Real estate in possession as illegally seized under a false and vicious attainder. This estate he has understood his attorney could have sold for more at the time and after - - - - - -	7,998	13	0
	£14,917	14	10

MATTHIAS ASPDEN.

The above was transcribed by Cooley; much too hastily done, but hopes it may be made out.

List of debts and bonds, taken from my ledger, that appear to be owing to me, and hindered the recovery from the illegal seizure of my real estate in possession, under a "false and vicious attainder," that prevented the parties from safely paying to me or my attorney.

M. A.

1775.	Bills and notes - - -	£39	14	0
	Sundry persons - -	53	10	9
	Richard Tyson - -	4	14	11
	Hugh and George Roberts -	4	19	6
	Walter Shee - - -	18	15	0
	Samuel & Thomas Murdoch -	10	5	4

Benjamin Dunn - -	1 12 4		
George Currie - -	3 7 6		
William Pusey - -	9 8 9		
John Whiteall - -	14 0 0		
Thomas Smith - -	56 15 0		
	£217 3 2		
Six per cent. simple interest on the above, 41 yrs. from 1 Jan., 1776	493 0 11		
		£710	4 1
1776, Jan. 1. Wm. Bradford, insurance broker - - -	216 2 6		
41 years' interest - -	551 2 5		
		747	4 11
It appears from a note in his ledger that all demands for losses, after rendering his account of this date, were paid to the parties themselves, who produced the policies by him or his attorney.			
1776, Jan. 1. Thos. & Isaac Wharton, insurance brokers - -	207 18 4		
41 years' interest - -	511 9 6		
		719	7 10
On this day the balance due to him was £357 18 4, and their account, rendered the 8th February following, the paid him £150 cash. From a note in his ledger, it appears that a subsequent debit, in July, 1776, for two losses, amounting to £243 10; one on the schooner Rebecca, Lovel, master, Philadelphia to Madeira, for H'y Hill; policy dated 22d March, 1775, the other on the sloop Sea Flower, blank, master, Porto			
		£2,176	16 10
		2,176	16 10
Rico, to the Havanah and St. Eustapha, for Meredith & Clymer; policy dated May 4th, 1775; is not allowed, the first for want of authority of vessel being missing, and the other for want of any proof of vessel being lost. Is inclined to think the debits for these losses were made at a later date than mentioned; and to cover balance from being claimed by the commissioners for forfeited estates, and not unlikely the like might be done in Bradford's office for the same purpose.			
1776, April. Thomas & Isaac Wharton, for the time of an indented servant woman, sold to their T. W. by his attorney -	£10 2 0		
40 years and 3 months' interest from 1st May, 1776 - -	24 3 4		
		34	5 4

1780, Feb. 12. Thos. & Isaac Wharton, for furniture bought by their T. W. at the sale of my household furniture, charged to account by attorney - - -	24	0	0			
36 years and 10 months' interest, from 1st March, 1780 -	42	18	10			
				66	18	10
1774, Nov. 3. Bonds, Jos. Wharton's, of Philadelphia, of this date, for	280	0	0			
(Left with Abraham Liddon.)						
41 years and 8 months' interest, from 3d May, 1775 - -	717	4	8			
				997	4	8
1776. Do., John Wm. Miller's, for the time of an indented servant lad, taken by his attorney, 28th March, 1780 - -	22	0	0			
36 years and 7 months' interest from this date - .	48	0	8			
				70	0	8
John Pasqueir, of Hispaniola -	124	18	0			
Bicalet & La Condre, do. -	1	2	6			
Malinon - - -	30	0	0			
Barrere - - - -	2	2	10			
	158	3	4			
Debts he has no doubt would been paid or remitted to him if the attainder had not hindered his return during the war, or immediately after.						
41 yrs. interest, from 1 Jan., 1776	388	19	9			
				547	3	1
				3,892	9	5
Bro't over - -				£3,892	9	5

James Mackenzie & Co., of Cowes: For part of the freight and 25 days' demurr'g due to my ship Charm'g Nancy, (may be near 50,) detained under the false pretence of some damage done the cargo *be* a piece of brrl. of tar in the forepeak, without furnishing any proof of it, from a survey taken and sent, and further aggravated from their mak-

ing an unwarrantable deviation in the voyage to cause it, and far greater injury to me, and many dangers and much suffering. My draft, dat'd Philada., Feb'y, 1776, they refused to honor; nor could I effect any payment of the same in England; further *then* ten half joes ship'd short, per return of the ship, of the number mentioned in bills of lading, and as this due to the ship. If they had ship'd it by the return of the ship, or given the ship credit for it, would been charg'd to Willing, Morris & Co., the charterers of the ship and shippers of the cargo to them. Their not doing clearly proves of course they must give them credit for it; and as their agents make them answerable for the same, and has no doubt if the attaind'r had not hinder'd my due return, I could have recover'd it of them before their failure.

	Demur'ge: Low, £4 ster'g a day; am't fre't and demur'ge, £119 18 4 ster'g - -	199	17	2		
	41 y'rs int't from 1 Jan'y, 1776	499	10	3		
					699	7
					£4,591	16 8
	Bro't over - -				£4,591	16 8
1784.	April 1. Joseph Shewell: For the bal'ce of rent of the house he lived in, from 1 May, 1776, to 1 Jan., 1782, includ'g £79 15 9 allow'd for int. to 1 April, 1784, per settled acct. with his attorn'y - - -	452	12	5		
	32 y'rs and 9 m'ths' int. from this date - - -	869	3	3		
					1,321	18 8
1780.	Oct. 27. Joseph Harrison, of Philada.: For advances to his brother George in England,					

and paym't of his bill from abroad on *on* this and subsequent dates, on a credit by him and mother. Before the courts were open to him, on the honor of the parties, this would not [have] been the case, if the attainder had not hinder'd his due return, nor could any been given on him; or if the courts had been earlier open to him, his attorn'y, he has no doubt, would have got the money, or security for it, before his failure. It therefore appears to him the State, in justice, is bound to answer it to him.

Am't, £208 2 10 sterl'g; exch'e 166⅔ - - -	346	18	0			
At 5 p. ct. simple int., 32 y'rs and 7 m'ths, from 21 May, 1784 - - -	564	1	8			
				910	19	8

1781. May 18. Joseph Rice, of Phila., advanced him in London "in the needful time of trouble," having been brought to England a prisoner of war, and lately discharged; and that, to enable him to get back, and not perish *and not perish* in the streets; and on these accounts, and as his attaind'r hindered any recovery of it by law, it appears to him he may, in justice, charge it to

				£6,824	15	0
Bro't over - -				£6,824	15	00
the State; and as he has since understood, he is dead.						
£21 sterling - - - -	35	00	0			
At 5 per cent. simple interest, 35 years and 7 months, from this date - - - - - -	60	16	4	95	16	4

Real estate, in possession, valued

on "affirmation" at £4,500. Illegally seized under a "false and vicious attainder, as the time" he left the country alone shews, the 19th September, 1776; compelled thereto from the pressure of his affairs in Europe and funds here, before a government formed or law passed, and with privity of the committee of safety. Therefore not with'n the "power" of the State, if he could been guilty of the offences afterwards declared to be treason; see cases "ruled and adjudged" prisoner of war, Chapman's, and others; and is evident that a more oppressive and grievous injury could not been done him or any man, and has been so experienced.						
For the houses consideration, and being on duty qui tam., valued at - - - - - -	4,500	00	0			
Allowed by the commissioners in England, after near 7 years attendance, and paid rather in small sums, in instalments, £1,184 sterling - - -	1,673	6	8			
	2,526	13	4			
34 years and 9 months' interest, from 1st April, 1782 - -	5,472	2	0	7,998	15	4
				£14,919	6	10

Has understood his attorney could have sold it for more at the time, and after.

Errors and omissions excepted.

MATTHIAS ASPDEN.

Philadelphia, November 29th, 1816.

My late attorney and half brother, James Hartley, deceased, gave me his note of hand in December, 1791, at three months, for £254.3, the balance of his account, which I endorsed over to the Bank of North America, in Philadelphia, and paid to the same; and had short credit

given me for the same, the 6th December, 1791. But as yet, although from this circumstance their absolute property and assets in their hands, they have not as yet given me full credit for it. Nor can they find the note, they say, although they have found the only *cheque* I drew on them in Philadelphia, a few months after, of the 2d July, 1792. My *cheque* book being balanced three days before to the 29th June preceding, and the *cheques* returned me I had drawn to that date. Except this endorsed note, and the one I drew on them in London, of the 20th September, 1793, which has been found and returned me, and all the others drawn since my return from England, about a year ago, for which I left Philadelphia on the 3d July, 1792. M. A.

This note, amounting, with interest to 1st January next, to £639 17 11.

N. B. I intend to have handed this by an attorney to the assembly, but my long absence making me like a new comer, I am quite a stranger to what hands to commit my affairs, or whose recommendation to take. If I had, its likely he would have thought it right, as not unusual in instances of this kind, to have reckoned compound interest. But as I have never taken more than the lawful interest for money, or ever oppressed any person indebted to me, tenant or otherwise, I have thought it better not to go the lengths he might have done, and to leave this matter for the consideration of the assembly and senate.

If time has not obliterated the rememberance of it, I will just remind the assembly, if the attainder had not been a hindrance to my due return, I could have bought certificates at 2s. 6d during the war, and 5s. in the pound some time after. What he may have further suffered through loss of contracts with the governments in Europe, is conjecture, but no doubt considerable, as his "integrity" is known there, and to have a common ancestor with most of the crown heads thereof.

(The above two papers were enclosed in an envelope, which envelope was endorsed as follows:)

To

Benjamin R. Morgan, esq.,

of the Senate,

Harrisburgh, State of

Pennsylvania.

Care of Mr. Winship.

William Rawle.

Papers put by Mr. Aspden into the hands of Mr. Morgan.

Charge of Justice Grier to the jury.

Afterwards, to wit, on the twenty-third day of October, A. D. 1848, the jury are charged by Justice Grier as follows, to wit:

Domicil is a word which we have adopted from the Roman or civil law, but which it has been considered so difficult to define with precision and accuracy, that an eminent writer (Bynkershock,) on the subject was unwilling to hazard a definition, and therein has been commended by a learned English judge (Lord Alvanley, 5th Vesey, 750,) for his wisdom.

The Roman codes described domicil as follows: "In whatever place an individual has set up his household gods and made the chief seat of his affairs and interests, from which, without some special avocation, he has no intention of departing; from which, when he has departed, he is considered to be from home; and to which, when he has returned, he is considered to have returned home. In this place, there is no doubt whatever, he has his domicil." (Quoted in Phillimore on Domicil, 11.)

It would tend rather to confuse than to elucidate the subject to notice the many other attempts at definition of this word, and to attempt to point out their several merits or defects. It may be correctly said, however, that no one word is more nearly synonymous with the word domicil than our word "home". The definition given by the late Judge Rush, of this city, (Guier vs. O'Daniel, 1 Binney, 349, n,) which has received the approbation of an English writer (Phillimore,) on this subject, combines, it is probable, accuracy with brevity beyond any other. He defines it "a residence at a particular place, accompnied with positive or presumptive proof of an intention to remain for an unlimited time."

Two things, says Judge Story, (Conflict of Laws, § 44,) must concur to constitute domicil. First. Residence. Secondly. The intention of making it the home of the party. There must be the fact and the intent, and in many cases actual residence is not indispensable to retain a domicil after it is acquired, but it is retained animo solo, by the mere intention not to change it or adopt another. If, therefore, a person leave his home for temporary purposes, but with an intention to return to it, this change of place is not, in law, a change of domicil.

There are few subjects presented to courts for their decision, which are surrounded with so many practical difficulties as questions of domicil. The residence is often of an equivocal nature; the intention extremely obscure, and has to be gathered from acts and declarations oftentimes conflicting and contradictory. It is probable, however, that there is not a case to be found in all the books which presents more difficulties arising from this cause than the one before us. The testimony fills an 8vo. volume of nearly 900 pages. You have the whole history of the life of Matthias Aspden, all that he did, much that he said, and much more that he has written. Indeed, it would seem that, being a man of much leisure, he had spent a great part of his life in writing documents which bear, some indirectly, and many directly,

upon the very question which you are called on to decide. And with obliquity of genius rarely exceeded, he has enveloped it in so much contradiction and confusion and obscurity, that it will require your utmost attention and the vigorous exercise of all your powers to solve the question.

On the first point submitted to you there is no doubt. The domicil of origin of Mr. Aspden was Philadelphia, in the then British province of North America.

The next question will be, did the testator ever change his domicil and acquire another; a domicil of choice as distinguished from his domicil of origin? And this is the great question in the case.

In the consideration of it the following rules must be observed:

1. That although a man may have two domicils for some purposes, he can have one only for the purposes of succession.

2. That the original domicil, or forum originis, as it is called, is to prevail until the party has not only acquired another, but has manifested and carried into execution an intention of abandoning his former domicil, and taking another as his sole domicil. A man cannot be considered as a vagabond, or a person without any domicil, for the domicil of origin is not abandoned until a new one has been intentionally and actually acquired.

3. That in order to acquire a domicil of choice, the fact of residence must be coupled with the intention to abide an indefinite time, or make the place his home. But the shortest residence with such an intention is sufficient.

A residence in one place for a great number of years is a violent and continuing proof of the animus manendi; yet if it clearly otherwise appear that such residence was without such intention, it would be of itself insufficient to constitute such domicil. (This remark, the court observed, might not be correct to this extent, in cases of commercial domicil in time of war, or of matrimonial, forensic, or political domicil in time of peace; but was to be received as correct in its application to cases of testamentary domicil.)

4. That the burden of proof lies on him who asserts a change of domicil.

5. That the domicil of origin easily reverts, and that it requires fewer circumstances to constitute domicil in a native subject or citizen, than to impress the national character on one who is originally of another character. The acquired domicil, however, must be finally abandoned before the domicil of origin can revert.

6. A fugitive from his country, on account of civil war, still retains his domicil, unless he shows an intention of a total abandonment of his country by the acquisition of a new domicil of choice. Nor will the confiscation of his property by the new government, in the case of a revolution effected after civil conflict, nor the attainder of his person, of themselves, put an end to his domicil of origin. If he elect to adhere to the old sovereign or government, looking forward with hopes of its re-establishment, his domicil of origin is not necessarily abandoned

by such election; allegiance to the existing government, or the exercise of political rights, constitute no part of the definition of domicil. These facts may, nevertheless, be of great importance in judging of the intention; consequently, adherence to the King of Great Britain in our revolutionary war, although it might have caused the forfeiture of the life or property of an American citizen, was not, of itself, an abandonment of his domicil. The estates of those persons who fled from England with the Stuarts, and died in France, were administered by the French courts according to the law of England as their domicil.

Keeping in view these principles, you will inquire whether Mr. Aspden ever acquired a new domicil of choice. It is admitted that he left Philadelphia, his domicil of origin, in 1776, and went to England, where, with the exception of two or three years spent in the United States, and in journeys on the continent of Europe for health or amusement, he lived until his death in 1824. The actual habitancy being thus clear, the question then depends on intention. Did he go to England with the intention of making it his home? If not, did he at any time while there change his intention, so that the animus manendi concurred with the act of habitancy, so as to constitute a change of domicil? The leading fact, that he spent the greater part of his life in England, and died there, raises a violent presumption that his intention corresponded with his acts; but, as I have before said, in questions of succession, even forty-eight years spent in a foreign country may possibly be accounted for, and the inference drawn from length of time rebutted.

(The court then gave a detailed history of the evidence, and afterwards proceeded as follows, to wit:)

Without expressing any opinion on Mr. Aspden's intention, I may say, that the testimony is full of contradictions, and would afford clear ground for a verdict either way, if the testimony on the opposite side be left out of view; as it is, the question is susceptible of much doubt.

Previous to the testator's return to England, in 1785, there is no sufficient evidence, I think, of an intention to make England his home. Between 1785 and 1791, when he returned a second time to Philadelphia, there are declarations both ways. How far, on the one side, they may be accounted for, as made by the suggestion of Mr. Douglas and Mr. Galloway, his counsel in England, to gain a certain end there; or how far, on the other, they may have been prompted by a hope of obtaining a return of his property here, you will judge for yourselves. After he obtained his pardon here, and compensation in England, his heart appears to have been set on getting his attainder reversed, and his property here restored; and the hope, it appears, never forsook him. Did it tend to keep the animus revertendi always alive in his breast? Does his reporting himself as an "alien" in England, and his styling himself "the right honorable Matthias, of Philadelphia," show that he considered himself an American? Or were such designations resorted to only for the purpose of evading a tax on his dividends in England?

In fine, without wishing to express any opinion on the merits of the

question, I may remark, that the biography of the testator exhibits him as a man who led an unhappy and discontented life. Love of money, his ruling passion, without ties of family or friendship, he fled to England to save his personal property from confiscation, and thereby lost his real property here. Notwithstanding his political principles made him prefer his English allegiance in the war of the revolution, and though he was extremely vexed by the treatment which he had received from our legislature, he still retained a strong attachment for his native land. When in England he was absent from the associations and companions of his youth, and ever planning his return. When he returns, he finds every thing changed. The friends of his youth have been removed by death. New men have grown up and are at the head of affairs. Every thing has been moving forward, while he alone has stood still. He fails to meet the respect and attention to which he fancies that his wealth entitles him. He becomes sour and discontented, and returns to England to inflict on chancellors and parliaments the endless memorials which he had lately found ineffectual on legislatures and Congresses. Time, instead of assuaging the sense of his grievances, seems only to add to their weight and number; his hopes of remuneration from republican honor or royal generosity, become at last a monomania; he spends his time in writing memoirs and memorials, contradictory and unintelligible, to annoy his contemporaries and puzzle posterity; and indites a will in a few lines, whose meaning, after twenty years of litigation, yet remains to be settled. A wandering hypochondriac in search of health, he spends his time in vibrating between two continents, is occupied throughout his life in accumulating wealth for unknown heirs, and finally dies without a friend to soothe his pillow or follow him to the grave! Whether he died an Englishman or an American it is for you, gentlemen, to decide.

Verdict of the Jury.

Afterwards, in the same session, to wit, on the twenty-fourth day of October, A. D. 1848, the jurors of the jury aforesaid, upon their oaths and affirmations aforesaid, respectively do say, that they find in favor of the plaintiff, that is to say: *First*, That the domicil of origin of Matthias Aspden, the testator, was in Pennsylvania. *Second*, That at the time of making his will, (December 6th, 1791,) his domicil was in Pennsylvania. *Third*, That at the time of the death of the testator, (the 9th of August, 1824,) his domicil was Pennsylvania. *Fourth*, That between the sixth of December, 1791, and the ninth of August, 1824, the domicil of Matthias Aspden was in Pennsylvania.

Motion for new trial.

Afterwards, to wit, on the twenty-seventh day of October, A. D. 1848, the defendants, by their solicitors aforesaid, move the court here for a new trial, and file the motion, with the reasons therefor; which reasons are in the words and of the tenor following, to wit:

(*Note by the clerk*.—These reasons have been mislaid, and, after diligent search, cannot be found.)

New trial refused.

And thereupon, afterwards, to wit, on the thirtieth day of October aforesaid, the motion for a new trial is dismissed, and new trial refused.

Petition of William Scull.

Afterwards, to wit, on the third day of April, A. D. 1849, the petition of William Scull, praying to be admitted a party, is presented by his solicitor, B. Newcomb, esquire; which petition, being read and filed, and granted by the court, is in the words and of the tenor following, to wit:

To the honorable the judges of the circuit court of the United States, in and for the eastern district of Pennsylvania, in the third circuit, sitting in equity.

The petition of William Scull, of the county of Louisa, in the State of Iowa, respectfully showeth: That your petitioner is, as he firmly believes, entitled to have distribution made to him as the party contemplated in and by the last will and testament of Matthias Aspden, deceased, late of the city of Philadelphia; which will is set forth in certain proceedings instituted in this honorable court, consisting of a bill filed by Samuel Parker against Henry Nixon, executor of Matthias [Aspden,] deceased, and the answer of the said Henry Nixon, the same being filed as No. 1, to April sessions, 1828. That the said Henry Nixon has since departed this life, and letters of administration de bonis non cum testamento annexo upon the estate of the said Matthias Aspden, deceased, were granted to Joseph Trotter. That Samuel Packer, the original complainant in this suit, has exhibited in this court his bill to revive the same against the said Joseph Trotter, administrator as aforesaid; and the said Joseph Trotter, administrator of the said Matthias Aspden, did, on the 14th day of March, 1848, file his answer to the said bill of revivor. That the above named William Scull is the son of John Scull and Ann, his wife, late Ann Hinchman; which Ann, late Ann Hinchman, was the daughter of William Hinchman and Ann, his wife, late Ann Hartley; which Ann Hartley was the daughter of Rebecca Hartley, the mother of the said Matthias Aspden, by her first husband, Roger Hartley, deceased; and that he, the said William Scull, is the grand nephew of the half-blood of the said Matthias Aspden, the testator, deceased, and his next of kin.

Your petitioner avers that the said Matthias Aspden, the testator, was born in the State of Pennsylvania, and that he was domiciled in the State of Pennsylvania at the time of making his said will, and also at the time of his death, and also during the whole period which intervened between the making of the said will and his death.

Your petitioner prays that he may be admitted as party to the said

suit for the purpose of claiming the fund in the hands of the said Joseph Trotter, administrator as aforesaid, and that your honors will be pleased to direct such inquiries to be made as to his claim as justice may require; and, finally, that the said fund may be decreed to those to whom it may in justice and equity appertain.

And your petitioner will ever pray, &c.

Petition of John Brown Francis.

Afterwards, to wit, on the twenty-ninth day of June, A. D. 1849, the petition of John Brown Francis, praying to be admitted a party, is presented by his solicitors, B. Tilghman and H. D. Gilpin, esquires; which petition, being read, and filed, and granted by the court, is in the words and of the tenor following, to wit:

To the honorable the judges of the circuit court of the United States, for the eastern district of Pennsylvania, in the third circuit, sitting in equity.

The petition of John Brown Francis, administrator of Mary Harrison, deceased, respectfully shows: That the said Mary Harrison, who, by her petition and amended petition heretofore filed in this suit, claimed to be entitled to have distribution made to her of the fund admitted to be in the hands of the executor of the last will and testament of Matthias Aspden, deceased, or part thereof, and was admitted as a party to this suit, has since departed this life.

That, on the 23d day of March, A. D. 1849, letters of administration of the estate of the said Mary Harrison were issued to your petitioner by the register of wills for the city and county of Philadelphia, which still remain in full force and unrevoked.

That on or about the 1st day of August, A. D. 1840, Henry Nixon, the original defendant in this suit, who appeared herein as executor of the last will and testament of the said Matthias Aspden, departed this life, and thereupon letters of administration de bonis non cum testamento annexo were, on the 12th day of May, A. D. 1841, granted by the said register to Joseph Trotter, of the said city of Philadelphia, which still remain in full force and unrevoked.

That on the 10th day of September, A. D. 1841, Samuel Packer, the original complainant in this suit, exhibited in this court his bill to revive the same against the said Joseph Trotter, administrator as aforesaid.

Wherefore your petitioner prays your honors to be admitted on the record as a party to the said revived suit, as administrator as aforesaid of the estate of the said Mary Harrison, for the purposes set forth in her original and amended petitions.

Opinion of the court.—Grier, J.

Afterwards, to wit, on the sixth day of August, A. D. 1849, the opinion of the court is delivered by Justice Grier; which opinion is in the words and of the tenor following, to wit:

ASPDEN CASE.

In the circuit court of the United States, for the eastern district of Pennsylvania.

PACKER et al.
vs.
TROTTER et al.
No. 1, of April session, 1828. In equity.

Opinion of court, by Mr. Justice Grier.

In conformity with the order of the Supreme Court, when this case was before it, (9 Peters, 540,) the pleadings have been amended, and proper averments as to the testator's domicil have been inserted. As it was a matter of much doubt, from the evidence, whether the testator's domicil was in England or Pennsylvania, an issue was submitted to a jury to ascertain the fact; and, after a very careful and thorough investigation of the subject, the jury have found that the testator's domicil of origin was in Pennsylvania, and never was by him changed for a domicil of choice; that therefore, in 1791, when the will was made, and up to his death, in 1824, Pennsylvania continued to be his domicil.

The case has again been argued with much ability and learned research by counsel. The question presented for our decision is, "what person or persons has the testator designated, by his will, as the objects of his bounty?" As the will of Matthias Aspden has not only been stereotyped on paper, but in the course of more than twenty years of litigation, is most probably engraven on the memory of all who take any interest in the present decision, I need not repeat it at length. The material words for our consideration are the following: "I give and bequeath my estate, real and personal, to my heir-at-law;" and again, in an explanatory postscript, "it is my will that my estate, real and personal, should go to the party who would be my lawful heir, in case there might arise any doubt on that head," (to wit, as to the legitimacy of his birth.)

What person, or class of persons, has the testator designated by this description, as the objects of his bounty?

I. To men learned in the law, it is almost superfluous to observe that the question, thus presented, is not one of latent ambiguity, as where a testator bequeaths his estate to his nephew, John Smith, and has two or more nephews of that name. In such case, rather than let the devise fail for uncertainty, the law permits parol testimony to be received, to show the person intended by the testator. But there is no ambiguity here, either latent or patent; the testator has described a certain person, or a certain class of persons, as the objects of his bounty; the description given cannot equally apply to two or more. If the testator declares that the hæres factus of his will shall be the same as the law would designate as his hæres natus, if he had died intestate, there can be no ambiguity to be explained by parol testimony. If A. B. be the person described by the will, it would be a perversion of all law to suffer

parol testimony to be admitted, to prove that the testator meant C. D.; the statute of "frauds and perjuries would be annulled." Much of the matter, therefore, which has been drawn into the discussion of this case, will have to be entirely rejected. Conversations, related after the lapse of half a century, are seldom worthy of credit; and, even if believed, are no evidence of a testator's true intention. The declarations of a rich uncle to his numerous poor relations, may be considered as made rather to conceal than reveal his real intentions. Again, suppose a testator should devise his property to such of his cousins as should be tenants of the manor of Dale, at the time of his death; and that, at the time the will was made, his cousin A. was tenant, but at the time of his death his cousin B. answered the description in the will; would the court admit evidence to show that the testator always lived, and had died under the impression that A. would be the person that would take under this devise? The will having declared the clear, paramount, and ruling intention of the testator, that a person should take, who, at the time of his death, should answer to a certain description; the fact that the testator never knew, or always labored under a mistake, as to the person who would probably answer to that description, at the time of his death, would not affect the construction of his will. Clear evidence of intention, solemnly declared in a will, is not to be set aside by loose testimony of the testator's notions or opinions. The court cannot indulge in conjectures founded on extraneous facts, to annul clear expressions of intention.

II. There is nothing within the four corners of this will which explains or controls the legal meaning of the word "heir," or shows any intention of the testator to use the word in any other than its technical legal import, to wit, "as the person or persons on whom the law would cast the inheritance of his real estate at his death."

After the learned and able discussion of this proposition, already on record, by my predecessor, I shall not think it necessary to enter into a labored review of the numerous cases which have been brought to the notice of the court by the industry of the learned counsel, but shall content myself with stating what I consider the established principles of the law, which bear upon the question, being the result of all the cases, as I find them clearly and correctly stated in a late valuable treatise on wills, by Mr. Jarman. (See 2 Jarman, chap. 28.)

1. Like all other legal terms, the word "heir," when unexplained and uncontrolled by the context, must be interpreted according to its strict legal import, in which sense it obviously designates the person or persons appointed by law to succeed to the real estate in case of intestacy.

2. It is clear, therefore, that where a testator devises real estate simply to his heir, or to his heir-at-law, or his right heirs, the devise will apply to the person or persons answering this description at the time of his death.

3. The circumstance, that the expression is "heir" (in the singular,) and that the heirship resides in, and is divided among several indi-

viduals as co-heirs, would create no difficulty in the application of this rule of construction; the word "heir" being in such cases used in a collective sense, as comprehending any number of persons who may happen to answer the description.

4. It is true, that with respect to personalty, it is often doubtful whether the testator employs the term "heir" in its strict and proper acceptation, or in a more lax sense, as descriptive of the next of kin, or the person or persons appointed by law to succeed to property of this description. Where the gift to the heirs is by way of substitution, this latter construction has sometimes prevailed, an example of which occurs in the case of Vaux vs. Henderson, (1 Jac. & Walk., 388,) where a testator bequeathed to A. £200, "and failing him, by decease before me, to his heirs," and the legacy was held to belong to the next of kin of A., living at the death of the testator. Sir R. P. Arden, M. R., in Holloway vs. Holloway, (5 Vesey, 503,) was strongly disposed to give the same construction to the word "heirs" applied to personalty, though his opinion, on another question, rendered the point immaterial.

5. But cases of this description must not be understood to warrant the general position that the word "heirs," in relation to the personal estate, imports next of kin, especially if real estate be combined with personalty in the gift; which circumstance, according to the principle laid down by Lord Eldon, in Wright vs. Atkyns, (19 Vesey, 219,) affords a ground for giving to the word, in reference to both species of property, the construction which it would receive as to the real estate, if that were the sole object of disposition. Thus, in the case of Gwynne vs. Muddock, (14 Vesey, 488,) where a testator gave all his real and personal estate to A. for life; adding, after her death, "her nearest heir-at-law to enjoy the same," Sir William Grant, M. R., held that the heir-at-law took both the real and personal estate, not the realty only, the testator having blended them in the gift.

6. And even where the entire subject of the gift is personal, the word "heir," unexplained by the context, must be taken to be used in its proper sense, nor will the construction be varied by the circumstance that the gift is to the heir in the singular, and there is a plurality of persons conjointly answering to the description of heir. Thus, under the words "to my heir £4,000," three co-heiresses of the testator were held to be entitled; Sir J. Leach, M. R., observing, "where the word is used, not to denote succession, but to describe a legatee, and there is no context to explain it otherwise, then it seems to me to be a substitution of conjecture in the place of clear expression, if I am to depart from the natural and ordinary sense of the word heir." (Mounsey vs. Blamire, 4 Russel, 384.)

Now, we have not here a legacy of money to "heirs" by way of succession; nor is there a syllable in the will indicating that the testator had any peculiar meaning of his own attached to the words "heir-at-law," or "lawful heir," or that he used the word "heir" as a synonyme for "relations" or "next of kin." On the contrary, he calls it his "estate," and not only so, but his estate "real and personal,"

and the person or persons designated to take it are designated as the heir-at-law" or "lawful heir."

Nor would it follow, because he gives some legacies to certain of his half-blood relations a parte materna, that therefore he intended to exclude them, or any of them, if, at the time of his death, they would answer the designation in his will; and, even if he did, this would not effect the claim of the half-blood a parte paterna, if it should turn out that they are the party described, for no legacies are left to them.

It is manifest that the testator did not intend that his property should be divided into real and personal after his death, and be given to different persons; but that the person or persons on whom the law would cast the inheritance of his lands at his death should have his personal property, subject only to the payment of debts and legacies.

The testator inherited from his father real property in Pennsylvania which he never sold, and although it had been forfeited by the State of Pennsylvania, he always denied the legality and justice of that forfeiture. He continued pertinaciously to claim it till the day of his death, and entertained the hope that his heirs, if not himself, would some day regain it. Whether these hopes were well or ill founded, and whether his property was legally or illegally wrested from him, we need not inquire. In seeking for his intention and meaning, it is enough for our purpose that he claimed to be the owner of landed estates in Pennsylvania, and though out of possession, always entertained the hope that he or his heirs would one day enjoy them. The bequest of his personalty has not been made to depend on the validity of his title to the realty.

III. It has not been denied in the argument of this case, nor will it be necessary to cite cases to prove, that this will must be construed as speaking at the death of the testator, "nemo est hœres viventis," and it follows, therefore, that where a testator describes his intended devisee or legatee as the person on whom the law, at his death, would cast the inheritance of his estate, his will must, ex vi termini, be construed as speaking at the death of the testator, and not at the time of its execution. (See 1 Jarman on Wills, 287.)

IV. As the testator had his domicil in Pennsylvania, and his will was executed there, and deposited in a bank in Philadelphia, and appointed executors in the same vicinity, and the real estate claimed by the testator was situated in the same State, we must refer to the law of that State when we seek to ascertain the person designated as "heir-at-law" or "lawful heir" of the testator. We are relieved from the necessity of proving this proposition, by the decision in this case by the Supreme Court. (9 Peters, 504.)

V. It has been contended that the phrase "heir-at-law" has been always used in Pennsylvania to designate "the heir at common law," in contradistinction to the statute heir; and the language of our statues as well as of the bar and bench, as found in our books of reports, seems to favor this assertion. By the 6th section of the charter granted to William Penn, the laws of England "for regulating and governing of

property, as well as for the enjoyment of lands and succession of goods and chattels," were introduced and established in Pennsylvania, to continue till they were altered by the legislature of the province. But the canons of descent of the common law were soon changed; and as early as 1683 it was enacted "that the estate of an intestate shall go to his wife and child or children, and if he leave no wife, child or children, it shall go to his brothers and sisters, if any there be," &c., &c.

Afterwards the act of 1705 gave the eldest son a double share. But, without attempting to give a history of the legislation on this subject, it may suffice for the present to say that, although the policy of her legislation was to distribute the estate of an intestate equally amongst the next of kin, no attempt was made to provide a complete canon of descents and distribution till 1794. This act was soon found to have many omissions, and was further amended by a supplement in 1797. In the meanwhile the courts construed these acts strictly, giving the inheritance to the heir at common law in all cases where a contrary direction was not given to it by the plain words of the statute. (See Johnson vs. Haines, 4 Dall., 64; Cresoe vs. Laidley, 2 Bin., 279; Jenks vs. Backhouse, 1 Bin., 91.) The common law of England, as governing cases not specially provided for by statute, was never totally abolished till the revised code of 1833 was adopted. Hence, the language and phraseology of the English courts continued to be used in the courts of Pennsylvania, sometimes, perhaps, without regard to proper distinctions or absolute correctness of diction; and here, as there, the term "heir-at-law" was not unfrequently used as an abbreviation, substitute, or equivalent for the expression "heir at common law."

In the act "for the better settling of intestates' estates," passed in 1705, (3 Smith Laws, 156,) section 8, the "heir at common law" is described with accuracy as "the next heir according to the course of the common law." But in the supplement to that act, passed in 1764, (3 Smith, 160,) and the fourth section, the phrase "heir-at-law" is somewhat inaccurately used to distinguish the elder son from his brothers and sisters. (See 1 Dall., 353; 3 Smith, 162.) In Johnson vs. Haines, (4 Dall., 65,) Chief Justice McKean uses the expressions "heir-at-law" and "heir at common law" indiscriminately to designate the same person. In the cases of Jenks' Lessee vs. Backhouse, (1 Binney, 91,) and Cresoe vs. Laidley, (2 Binney, 279,) while the very learned and accurate reporter carefully uses the phrase "heir at common law" only, the counsel and sometimes the court have used the shorter expression "heir-at-law" as synonymous."

Without venturing to assert that these and other instances to be found in our reports are evidences of careless diction, or of an inaccurate application of the language of English lawyers to the peculiar legislation of Pennsylvania, I may say, it is an usus loquendi peculiar to a class; it has not the force of authoritative definition, or of judicial decision, where the question is directly brought before the court. On the contrary, in Ruston vs. Ruston, (2 Yeates, 61,) where the question was

made whether a proviso in a devise of land (by will, dated in 1784) to the eldest son, directing the payment of a sum of money, was a condition, it was argued that it could not be so, for the "heir-at-law" only can enter for the condition broken, which heir the defendant himself was. To this it was answered, that in Pennsylvania all the children are "heirs-at-law" or "the heir-at-law" of the father; and with this, Chief Justice McKean, who delivered the opinion of the court, agreed, and said, "the defendant could not be considered, in this case, as heir-at-law in Pennsylvania, where, if, at that time, a person had died intestate, his real estate would have descended to all his children equally, the eldest son having only a double portion or share, and therefore the devise may even be considered as a condition."

So also in French vs. McIlheney, (2 Binney, 20,) Chief Justice Tilghman observes, "In England the eldest son is heir; but here the law is more equitable, and the children together are considered as heirs." (See also a MS. opinion of Mr. Justice Bell in the case of Crosby vs. Davis, in which this subject is treated with much learning and ability.)

The persons on whom the law of Pennsylvania casts the estate of an intestate, if more than one, hold as tenants in common, or as coparceners do in England, and in correct legal phraseology may be styled the lawful heir or the heir-at-law.

But admitting that if this will had used the words "heir-at-law" alone as descriptive of the person to whom the whole estate is bequeathed, there might have been sufficient reason to doubt whether the testator had not intended thereby to describe the "heir at common law" in contradistinction to the heir-at-law by the statutes of Pennsylvania; we are, nevertheless, relieved from this uncertainty by the second description of the devisee in the will, intended to be explanatory of the first. The testator explains his meaning, by saying he intended to describe the party who would be his "lawful heir," in case he himself were legitimate. Now, it cannot be pretended that any one, either lawyer or layman, in Pennsylvania, when speaking of his "lawful heir," refers to the person who would inherit according to the law of England; or that, like the phrase "heir-at-law," it has been used in any special, peculiar, or professionally technical sense, as an equivalent or abbreviation of the more correct expression, "heir at common law," or "next heir according to the course of the common law."

How can the court be justified in construing the expression "heir-at-law" in its peculiar professional sense, according to the modus loquendi of a certain class, and not according to its legal and established definition, as the person or persons on whom the law casts the inheritance, when the testator himself has used another expression, as an equivalent or explanatory of the first, which never was used in that peculiar sense which has been carelessly given to the other, but agrees with it in its legal and established definition?

Nor is this argument subject to the retort which the lord chancellor said the counsel might have on each other, in Lowndes vs. Stone (4

Vesey, 649,) where A devised his "estate to his next of kin or heir-at-law." "You have a fair retort," says he, "on each other; one side may contend that 'next of kin' means 'heir-at-law;' the other that 'heir-at-law' means 'next of kin.'"

In that case the testator had ignorantly used terms as equivalent or synonymous which are incapable of the same definition. Here the term used as explanatory is capable of the same definition, and relieves the doubt as to whether the first was intended to be used in a special sense, not necessarily included in its general definition.

VI. Having then defined the person or persons designated by this will to take the estate of Matthias Aspden to be the person or persons on whom the law of Pennsylvania would cast the inheritance of his land as his lawful heir, provided he had died intestate, let us now inquire who would have inherited the lands owned or claimed by Mr. Aspden at the time of his death, in 1824, by the law of Pennsylvania, in case of intestacy.

Matthias Aspden, at his death, left neither wife nor lineal descendant, father or mother, brother or sister of the whole blood, nor brother or sister of the half-blood; but he left issue of brothers and sisters of the half-blood, to wit, the issue of his half-sister Mary Aspden, daughter of his father, who intermarried with Captain Henry Harrison; and also issue of half-brothers and sisters, children of his mother by her first husband, Roger Hartly. He left also, of the whole blood of the father, issue of paternal first cousins, one of whom, John Aspden, of Lancashire or of London, was his heir at common law, or by the law of England.

Besides these, there were numerous relatives of the whole blood, a parte materna, being issue of maternal first cousins, &c.

The original complainant in this case was Samuel Packer, who claimed as heir at common law, being a grandson of a maternal uncle of Matthias Aspden. This claim has since been abandoned; but a multitude of cousins of the fourth, fifth and sixth degrees of the maternal or Packer blood, have put in their claims as next of kin.

This numerous class of claimants may be dismissed at once, without further notice. They have no claim on the estate of Matthias Aspden, on any possible construction that can be given to this will, or to the intestate laws of Pennsylvania.

The only question in the case is between the heir at common law and the issue of the half blood.

If this case presents a casus omissus by the statute law of Pennsylvania, as has been argued, and as my learned predecessor has decided, then I fully concur with him, that the "lawful heir" of Matthias Aspden was the heir at common law, or John Aspden of England. For, as I have already stated, previous to 1833, the heir at common law always took in Pennsylvania, where it was not otherwise provided by statute.

Was this case provided for by the intestate laws of Pennsylvania? We answer, yes.

The eleventh section of the act of 19th of April, 1794, entitled "An act directing the descent of intestates' real estate, and distribution of their personal estates," &c., (3 Smith, 148,) is as follows:

"That where any person shall die seized as aforesaid, leaving no children, or lawful issue, father or mother, brothers or sisters, or their lawful issue of the whole blood, then brothers and sisters of the half-blood, and their lawful issue, shall inherit the same as aforesaid, in preference to the more remote kindred of the whole blood, unless where such inheritance came to the said person so seized by descent, devise, or gift of some one of his or her ancestors; in which case all those who are not of the blood of such ancestors shall be excluded from such inheritance."

If this section be not repealed, we have here the precise case before us. Matthias Aspden left lawful issue of brothers and sisters of the half-blood, who, it is declared, "shall inherit as aforesaid;" that is, as stated in the last lines of the ninth section, which is in these words:

"Excepting, nevertheless, that where the issue to take shall not be of equal degree to the person dying seized or possessed, the several descendants taking by representation, to inherit and enjoy, the one person solely, and several persons as tenants in common in equal parts, such share only as would have descended, or been distributed, to his, her, or their parent or ancestor, if such parent or ancestor had been living."

By this law of Pennsylvania the issue of the half-blood are substituted to the heir at common law, and preferred to more remote kindred of the whole blood; and if in force in 1824, when Mr. Aspden died, the issue of Mrs. Harrison would have inherited his real estate which came from his father; and the issue of the maternal half-blood would have inherited estate which came from the mother's side, and both jointly that which the testator had acquired by his own means.

Has this section of the act of 1794 been repealed?

It is said that the seventh section of the act of 4th April, 1797, repeals the eleventh section of the act of 1794.

The high respect which I have for the legal learning and judgment of those who have made this assertion will require something more than a mere contrary assertion; and although the burden of proof lies with those who allege the repeal of a statute, I am not willing to rely merely on the want of argument to support the affirmative proposition, but shall assume the position of one who is compelled to prove a negative.

Let us inquire what are the principles laid down by the sages of the law to govern questions like the present.

1. "An act of parliament may be repealed by the express words of a subsequent statute, or by implication."

2. "If a subsequent statute contrary to a former have negative words, it shall be a repeal of the former act."

3. "Every affirmative statute is a repeal by implication of a precedent affirmative statute, so far as it is contrary thereto; for 'leges posteriores priores contrarias abrogant.'"

4. "A latter act has never been construed to repeal a former act, unless there be a contrariety or repugnance in them, or at least some notice taken of the former act, so as to indicate an intention in the law-giver to repeal it. The law does not favor a repeal by implication unless the repugnance is quite plain. Dwarris, 674, Dare vs. Grey, 2 T. R., 365. Also, when two acts are seemingly repugnant, yet if there be no clause of non obstante in the latter, they shall, if possible, have such construction that the latter may not be a repeal of the former by implication." 11 Rep., 63.

The act of 4th April, 1797, was made (says Chief Justice Tilghman, Cresoe vs. Laidley, 2 Binn., 286,) for the express purpose of supplying the defects of the act of 19th April, 1794.

The latter act purports to be a supplement to the former.

The fifth section, where the cases omitted in the former act, and intended to be supplied, are commenced, has this preamble:

"Whereas the provisions of the act to which this is a supplement appear to be incomplete," &c., and proceeds in that and the following sections to supply certain casus omissus of the act of 1794, and ends the last section in these words: "and that the 2d section of the act to which this is supplementary be, and the same is hereby, repealed."

Now the legislature have declared in express terms that they repeal the second section of the act of 1794 only. There is, therefore, no express repeal of the eleventh section.

There is not a word in the latter law which negatives any provision of the 11th section of the former. The issue of the half-blood shall inherit, says the former, in preference to more remote kindred of the whole blood, and there is not a syllable in the last act which is contrary to this provision of the first. There is not the least repugnancy between them. The latter was made to supply omissions of the former, and yet, without directly repealing the eleventh section, it is contended that the seventh section of the latter act creates a casus omissus by implication, because it omitted to re-enact what already had been provided for in the eleventh section of the first act.

The act of 1794 and its supplement of 1797 should be construed as one act (Bevan vs. Taylor, 7 Serg. & R., 403.) The 11th section of the former applies only to the inheritance of real property, and the 12th section, which appears to include both real and personal, provides for the issue of brothers and sisters of whole and half blood only by implication, or negative pregnant, and wholly omits the case where there are both.

The 7th section supplies this oversight or omission; first, in case there are brothers and sisters or their representatives, both of the whole and half blood; and, secondly, provides for the distribution of the personalty when there were no brothers or sisters of the whole blood, but brothers and sisters of the half blood; but, in supplying this omission, it unnecessarily included the inheritance of the realty which had already been provided for in the 11th section of the original act, and moreover neglected to include the issue of the half blood, which still remained a

casus omissus as regards the personalty, by the omission of the words or "their lawful issue," in the supplement.

Construing this act of 1794, with its supplement of 1797, as one act, we have, then, this case: a latter section unnecessarily repeats some of the provisions of a former section, and omits others; does this omission amount to a repeal of what it did not repeat? I must say, I admire the courage more than the candor of those who assert the affirmative of this proposition.

I am of opinion, therefore, that the 11th section of the act of 1794 was not repealed, but was in full force and effect, as the law of Pennsylvania, in 1824, at the death of Matthias Aspden, and, consequently, that the issue of his brothers and sisters of the half blood, as tenants in common, were the lawful heirs of Mathias Aspden, and designated by his will as the objects of his bounty.

Whether, under the peculiar circumstances of this case, any distinction can be made between the half blood a parte paterna and those a parte materna, is a question which has not yet been brought before the court, and probably will not, as the different parties claiming to be heir at common law have combined their forces on the one side, and those of the half blood on the other. We, therefore, wish to be considered as neither having formed or expressed any opinion on that point, should it chance to be hereafter litigated.

The bills filed by all those claiming as next of kin, being descendants of the maternal grand uncles and aunts of the testator, are therefore dismissed without payment of costs; as also the bills filed by those claiming under the heir at common law, and the case is referred to a master to report the facts necessary for a final decree upon the principles now decided.

By the court.

Petitions of Edmund Brown and others.

Afterwards, to wit, on the same day, the petitions of Edmund Brown, and others; of William Brick, and others; of Zebiah Brick, and others; of Matthias Hartley, administrator, &c.; of Joshua P. Browning, administrator, &c.; and of Gideon Gosnell, administrator, &c., are presented by their respective solicitors; which petitions, being read and filed, and granted by the court, are in the words and of the tenor following, to wit:

To the honorable the judges of the circuit court of the United States, for the eastern district of Pennsylvania, in the third circuit, sitting in equity.

The petition of Edmund Brown, of the city of Philadelphia, and a citizen of the State of Pennsylvania; of Silas Anthony and Mary his wife, late Mary Brown, in right of said Mary, of Elisha Brown, and Ezra Brown, all of Wayne county, New York, and citizens of the State

of New York; of Benjamin H. Brown, of Burlington county, New Jersey, and a citizen of the State of New Jersey; and of Samuel Baugh, of the city of Philadelphia, and a citizen of the State of Pennsylvania, sole executor of the last will and testament of Thomas Chalkley Brown, deceased, respectfully represents: That the said Edmund Brown, Mary Brown, (now Mary Anthoney,) Elisha Brown, Ezra Brown, (called, by mistake, Israel Brown, in the petitions hereinafter referred to,) Benjamin H. Brown, (called Benjamin Brown in said petitions,) and Thomas Chalkley Brown, (called Thomas Brown, or Chalkley Brown, in said petitions,) by their petitions and amended petitions filed in this suit, claimed to be entitled to have distribution made to them of the fund admitted to be in the hands of the executor of the last will and testament of Matthias Aspden, deceased, or part thereof, and were duly admitted as parties to this suit.

Your petitioners, Edmund Brown, Mary Anthony, late Mary Brown, Elisha Brown, Ezra Brown, Benjamin H. Brown, and the said Thomas Chalkley Brown, deceased, were the only children of Mary Brown, deceased, who was a daughter of Benjamin Hartley, deceased, who was a half brother of the testator, Matthias Aspden. That the said Mary Brown, mother of your petitioners, died about the year 1819, intestate, leaving your petitioners her heirs at law and next of kin; and your petitioners pray that their former petition and amended petition may be amended according to the statements of their present petition.

That your petitioner Mary Anthony, late Mary Brown, has, since the filing of her former petition in this suit, intermarried with Silas Anthony; that the said Thomas Chalkley Brown died in the year 1845, having first made his last will and testament, bearing date the nineteenth day of January, 1845, wherein he appointed Thomas Pritchett and the said Samuel Baugh the executors thereof; that the said Thomas Pritchett renounced as executor. That, on the nineteenth day of July, 1845, the said will was duly admitted to probate by the register of wills of the city and county of Philadelphia, and letters testamentary were, on the same day, granted and issued to the said Samuel Baugh, as executor of the last will and testament of the said Thomas Chalkley Brown, deceased; which said letters testamentary remain in full force and unrevoked.

That, on the 18th of August, 1840, Henry Nixon, the original defendant in this suit, departed this life; and thereupon letters of administration de bonis non cum testamento annexo were, on the 12th day of May, 1841, duly granted by the said register to Joseph Trotter, of the said city of Philadelphia; which letters of administration still remain in full force and unrevoked.

That, on the 10th day of September, 1841, Samuel Packer, the original complainant in this suit, exhibited in this court his bill to revive the same against the said Joseph Trotter, administrator, as aforesaid.

Wherefore your petitioners pray your honors to be admitted on the

record as parties to the said revived suit, for the purposes set forth in their original and amended petitions.

BENJ'N TILGHMAN,
JNO. L. NEWBOLD,
Solicitors for petitioners.

Petition of William Brick and others.

To the honorable the judges of the circuit court of the United States, for the eastern district of Pennsylvania, in the third circuit, sitting in equity.

The petition of William Brick, a citizen of the State of New Jersey, sole executor of the last will and testament of Rebecca Burrough, deceased; of Matthias Aspden Hartley, a citizen of the State of Pennsylvania, sole administrator of Asher Hartley, deceased; of Jacob S. Brick, a citizen of the State of New Jersey, administrator de bonis non cum testamento annexo of the last will and testament of Bathsheba Brick, deceased; of Mercy H. Brick and Elizabeth H. Brick, citizens of the State of New Jersey, surviving executrixes of the last will and testament of Elizabeth Brick, deceased, respectfully represents: That they are, as they firmly believe, entitled to have distribution made among them, as the parties contemplated in and by the last will and testament of Matthias Aspden, deceased, late of the city of Philadelphia; which will is set forth in certain proceedings instituted in this honorable court, consisting of a bill filed by Samuel Packer against Henry Nixon, executor of Matthias Aspden, deceased, and the answer of the said Henry Nixon to the same, the same being filed as No. 1, to April sessions, 1828.

That, on or about the 18th of August, 1840, Henry Nixon, the original defendant in this suit, departed this life, and thereupon letters of administration de bonis non cum testamento annexo were, on the 12th day of May, A. D. 1841, duly granted to Joseph Trotter, of the city of Philadelphia, which letters still remain in full force and unrevoked.

That, on the 10th day of September, A. D. 1841, Samuel Packer, the original complainant in this suit, exhibited in this court his bill to revive the same against the said Joseph Trotter, administrator as aforesaid; and the said Joseph Trotter, administrator as aforesaid, did, on the 14th day of March, 1848, file his answer to the said bill of revivor.

That the said Rebecca Burrough, Asher Hartley, Bathsheba Brick, and Elizabeth Brick, who, by their petitions and amended petitions heretofore filed in this suit, claimed to be entitled to have distribution made to them of the fund admitted to be in the hands of the executor of the last will and testament of Matthias Aspden, deceased, or part thereof, and were duly admitted as parties to this suit, have since departed this life; the said Rebecca Burrough having first made her last will and testament, bearing date the 25th day of November, 1831, wherein she constituted and appointed William Brick, one of your

present petitioners, sole executor thereof; that, on the 21st day of December, 1831, the said will was duly admitted to probate by the surrogate of the county of Gloucester in the State of New Jersey, and, on the same day, letters testamentary were issued to your petitioner, William Brick, as sole executor of the last will and testament of the said Rebecca Burrough, deceased, which letters testamentary still remain in full force and unrevoked.

And the said Asher Hartley having departed this life on or about the first day of April, 1836, intestate, letters of administration upon his estate were duly granted and issued on the fifth day of October, 1848, to your petitioner, Matthias Aspden Hartley, by the register of wills for the city and county of Philadelphia, which letters of administration still remain in full force and unrevoked; and the said Bathsheba Brick having departed this life on or about the first day of July, 1831, having first made her last will and testament, bearing date the fifth day of February, 1827, wherein she appointed James H. Brick and John Brick, executors thereof; that the said James H. Brick and John Brick are both since deceased. That, on the second day of October, 1848, letters of administration de bonis non cum testamento annexo were duly granted and issued upon said estate by the surrogate of the said county of Gloucester to your petitioner, Jacob S. Brick, which letters of administration still remain in full force and unrevoked.

That the said Elizabeth Brick departed this life on or about the first day of May, 1844, having first made her last will and testament, bearing date the 21st day of November, 1843, wherein she appointed her daughter, Mercy H. Brick, Elizabeth Brick, and Rebecca H. Brick, the executrixes thereof.

That, on the 17th day of May, 1844, the said will was duly admitted to probate by the surrogate of the county of Camden, in the said State of New Jersey, and, on the same day, letters testamentary were granted by the said surrogate to your petitioners, Mercy H. Brick and Rebecca H. Brick, and Elizabeth Brick, the younger. That the said Elizabeth Brick, the younger, has since died, leaving your petitioners, Mercy H. Brick and Rebecca H. Brick, surviving executrixes of the last will and testament of the said Elizabeth Brick, the elder, deceased; which said letters testamentary still remain in full force and unrevoked.

Wherefore your petitioners pray your honors to be admitted on the record as parties to the said revived suit, for the purposes set forth in the said original and amended petitions.

BENJAMIN TILGHMAN,
JOHN L. NEWBOLD,
Solicitors for petitioners.

Petition of Zebiah Brick.

To the honorable the judges of the circuit court of the United States, for the eastern district of Pennsylvania, in the third circuit, sitting in equity.

The petition of Zebiah Brick, of the county of Camden, in the State of New Jersey, and a citizen of the said State, administratrix of John Brick, deceased; of Thomas Evens, of the said county of Camden, and a citizen of the said State of New Jersey, sole executor of the last will and testament of Thomas B. Hartley, deceased, respectfully represents, that the said John Brick, who, by his petition and amended petition, heretofore filed in this court, claimed to be entitled to have distribution made to him of the fund admitted to be in the hands of the executor of the last will and testament of Matthias Aspden, deceased, or part thereof, and was duly admitted a party to this suit, did, on or about the thirteenth day of December, A. D. 1843, depart this life, intestate; that on the tenth day of April, A. D. 1844, letters of administration upon his estate were duly granted by the surrogate of the said county of Camden, to his widow Zebiah Brick, your present petitioner, which letters remain in full force and unrevoked.

That the said Thomas B. Hartley, who, by his petition and amended petition, (under the name of Thomas Hartley,) heretofore filed in this court, claimed to be entitled to have distribution made to him of the fund admitted to be in the hands of the executor of Matthias Aspden, deceased, or part thereof, and was duly admitted as a party to this suit, did, on the 28th day of April, A. D. 1832, or thereabouts, depart this life, having first made his last will and testament, bearing date the 27th day of April, 1832, wherein he appointed Thomas Evans, your present petitioner, sole executor thereof.

That on the thirteenth day of June, 1832, the said will was duly admitted to probate by the surrogate of the county of Gloucester, in the said State of New Jersey, and letters testamentary were, on the same day, granted and issued by the said surrogate to your petitioner, Thomas Evans, as sole executor of the last will and testament of the said Thomas B. Hartley, deceased, which letters testamentary still remain in full force and unrevoked.

That on or about the 18th of August, 1840, Henry Nixon, the original defendant in this suit, departed this life, and thereupon, letters of administration de bonis non cum testamento annexo were, on the 12th day of May, A. D. 1841, duly granted by the register of wills of the city and county of Philadelphia, to Joseph Trotter, of the city of Philadelphia, which letters of administration still remain in full force and unrevoked.

That on the 10th day of September, A. D. 1841, Samuel Packer, the original complainant in this suit, exhibited in this court his bill to revive the same against the said Joseph Trotter, administrator as afore-

said; and the said Joseph Trotter, administrator, did, on the 14th day of March, 1848, file his answer to the said bill of revivor.

Wherefore your petitioners pray your honors to be admitted on the record as parties to the said revived suit, for the purposes set forth in the original and amended petitions of the said John Brick and Thomas B. Hartley.

JOHN L. NEWBOLD,
BENJAMIN TILGHMAN,
Solicitors for petitioners.

Petition of Matthias Hartley, administrator, &c.

To the honorable the judges of the circuit court of the United States, for the eastern district of Pennsylvania, sitting in equity.

The petition of Matthias Hartley, of Green county, in the State of Pennsylvania, and a citizen of said State, administrator of James Hartley, deceased, respectfully represents, that Otho W. Minor and Benjamin F. Black, administrators of the said James Hartley, deceased, who, by their petition filed in this honorable court in this suit, claimed to have distribution made to them of the fund admitted to be in the hands of Joseph Trotter, administrator of Matthias Aspden, deceased, or part thereof, have both departed this life, and that letters of administration upon the estate of the said James Hartley were duly granted by the register of wills of said Green county, on the second day of October, 1848, whereby your petitioner, Matthias Hartley, was constituted administrator of the said James Hartley, deceased, which letters still remain in full force and unrevoked. Wherefore your petitioner prays your honors to be admitted on the record as a party to the said suit, for the purposes set forth in the original petition of the said Otho W. Minor and Benjamin F. Black, administrators of the said James Hartley.

JOHN L. NEWBOLD, *Sol. for petitioner.*

Petition of Joshua P. Browning, administrator, &c.

To the honorable the judges of the circuit court of the United States, for the eastern district of Pennsylvania, in the third circuit, sitting in equity.

The petition of Joshua P. Browning, of the county of Camden, in the State of New Jersey, and a citizen of said State, administrator of Elizabeth Fortiner, deceased, respectfully showeth, that your petitioner is, as he firmly believes, entitled to have distribution made to him, as the representative of one of the parties contemplated in and by the will of Matthias Aspden, deceased, late of the city of Philadelphia, which will is set forth in certain proceedings instituted in this honorable court, consisting of a bill filed by Samuel Packer against Henry Nixon, executor of Matthias Aspden, deceased, the answer of the said Henry Nixon, a bill of revivor filed by the said *said* Samuel Packer against Joseph Trotter, administrator de bonis non cum testamento annexo of the said Matthias

Aspden, and the answer of the said Joseph Trotter, the same being filed as No. 1, to April sessions, 1828.

Your petitioner's intestate, the said Elizabeth Fortiner, was one of the two children of James Hartley, deceased, and the said James Hartley was one of the seven children of Benjamin Hartley, deceased, who was a half-brother of Matthias Aspden, the said testator. The said James Hartley died in or about the year 1822, before the death of the said testator, leaving one son, Thomas B. Hartley, and one daughter, the said Elizabeth Fortiner, formerly Elizabeth Hartley.

That the said Elizabeth Fortiner died in or about the year 1830, intestate. That on the twenty-sixth of May, 1849, letters of administration upon her estate were duly granted by the surrogate of the county of Camden, in the said State of New Jersey, to your petitioner, Joshua P. Browning, which letters still remain in full force and unrevoked.

Your petitioner avers that the said Matthias Aspden, the testator, was born in the State of Pennsylvania, and that he was domiciled in said State at the time of making his said will, and also at the time of his death, and also during the whole period which intervened between the making of the said will and his death.

Your petitioner prays that he may be admitted as a party to the said suit for the purpose of claiming the fund in the hands of the said Joseph Trotter, administrator, and that your honors will be pleased to direct such inquiries to be made as to his claim as justice may require, and finally that the said fund may be decreed to those to whom it may in justice and equity appertain.

And your petitioner will ever pray, &c.

BENJ'N TILGHMAN,
JOHN L. NEWBOLD,
Solicitors for petitioners.

Petition of Gideon Gosnell, administrator, &c.

To the honorable the judges of the circuit court of the United States, for the eastern district of Pennsylvania, in the third circuit, sitting in equity.

The petition of Gideon Gosnell, of the county of Jefferson, in the State of Ohio, and a citizen of said State, administrator of John Hartley, deceased, respectfully represents: That the said John Hartley, who, by his petition heretofore filed in this suit, claimed to be entitled to have distribution made to him of the fund admitted to be in the hands of the administrator of Matthias Aspden, deceased, or part thereof, departed this life intestate. That letters of administration upon his estate were duly granted by the court of common pleas of the said county of Jefferson, on the fourth day of September, 1848, to your present petitioner, Gideon Gosnell, who was thereby duly constituted administrator of said estate; which letters still remain in full force and unrevoked.

Wherefore, your petitioner prays your honors to be admitted on the record as a party to the said suit, for the purposes set forth in the original petition of the said John Hartley.

JNO. L. NEWBOLD,
Solicitor for petitioner.

Reference to master to report facts for final decree.

Afterwards, to wit, on the twenty-fourth day of September, A. D. 1849, this case is referred to Thomas J. Wharton, esquire, as master, to report the facts necessary for a final decree, upon the principles decided in the opinion delivered in this case upon the sixth day of August, 1849. The final decrees in relation to the bills filed by all those claiming as next of kin, being descendants of the maternal grand uncles and aunts of the testator, and also the bills filed by those claiming under the heir at common law, are to await the coming in of the report of the master, or the further order of the court.

Petition of David Hartley and others.

Afterwards, to wit, on the twenty-seventh day of October, A. D. 1849, the petition of David Hartley and others, praying to be admitted parties, is presented by their solicitor, John L. Newbold, esquire; which petition, being read and filed, and granted by the court, is in the words and of the tenor following, to wit:

To the honorable the judges of the circuit court of the United States, for the eastern district of Pennsylvania, in the third circuit, sitting in equity.

The petition of David Hartley and Jesse Hartley, of Washington county, in the State of Pennsylvania, and citizens of the said State; of James Slonaker and Nancy, his wife, late Nancy Hartley, in right of said Nancy, of Harrison county, in the State of Ohio, and citizens of said State of Ohio, respectfully represents: That they are, as they firmly believe, entitled to have distribution made among them, as the parties contemplated in and by the last will and testament of Matthias Aspden, deceased, late of the city of Philadelphia; which will is set forth in certain proceedings instituted in this honorable court, consisting of a bill filed by Samuel Packer against Henry Nixon, executor of the said Matthias Aspden; the answer of the said Henry Nixon; a bill of revivor against Joseph Trotter, administrator de bonis non cum testamento annexo of the said Matthias Aspden; and the answer of the said Joseph Trotter, the same being filed as No. 1 to April sessions, 1828. That your petitioners, David Hartley, Jesse Hartley, and Nancy Slonaker, are the children of Thomas Hartley, deceased, who was a son of Roger Hartley, deceased, who was a brother of the half blood of the said Matthias Aspden, the testator. That the said Thomas Hartley departed this life in or about the month of August, in the year one thousand

eight hundred and fourteen; and that the said Roger Hartley also departed this life during the lifetime of the said Matthias Aspden.

And your petitioners aver that the said Matthias Aspden was born in the said State of Pennsylvania; that he was domiciled in the city of Philadelphia, in the said State of Pennsylvania, at the time of making his said will, at the time of his death, and during the whole intermediate period.

Your petitioners pray that they may be admitted as parties to the said suit, for the purpose of claiming the funds in the hands of the said Joseph Trotter, administrator aforesaid; and that your honors will be pleased to direct such inquiries to be made as to their respective claims as justice may require, and finally that the said fund may be decreed to those to whom it may in justice and equity appertain.

And your petitioners will ever pray, &c.

Minutes of the master.

Afterwards, to wit, on the twenty-ninth day of October, A. D. 1849, the minutes of the master, of the fifteenth of October, are presented, which being read and filed, are in the words and of the tenor following, to wit:

Mr. Budd, for the representatives of John Aspden, of Lancashire, offers evidence to prove that the said John Aspden was of kin to the testator, Matthias Aspden, and as such was, upon the principles stated in the opinion of the court, of the 6th of August, 1849, entitled to a share in the succession.

Mr. Williams, for the representatives of John Aspden, of London, offers similar evidence.

Mr. Tilghman, and others, representing persons claiming under the brothers and sisters of the half-blood of the testator, objected to this evidence, on the ground that all the English claimants, and all the claimants of the whole blood, ex parte materna, were excluded by the terms of the opinion and by the decree, from coming in before the master.

I was of opinion that I ought to receive the evidence, leaving its effect to be judged of hereafter; that even if the bills of the Aspdens and others had actually been dismissed, yet it was competent for them to show that they were entitled to come in upon the fund in another character or right; and if it should appear, after the evidence was given, that they were not within the principles laid down by the court, then it would be time to reject the claim.

A question was also raised, (viz., on the part of the representatives of the half blood ex parte materna,) whether the master could receive any new evidence in respect to pedigree, or the rights, either of the parties actually before the court, or of others who might ask to be reported as coming within the operation of the principles laid down by the court.

I was of opinion that I had a right to receive new evidence, and al-

though I considered the depositions which had been taken, and the previous reports of the master as evidence, as far as they went, yet that they did not exclude other evidence, either to fill up deficiencies in proof of pedigree, or to contradict what has been already received; so that I might be able to report to the court with as much certainty as could be arrived at, who, in point of fact, were the persons entitled to share in the fund according to the principles of law stated by the court.

Instructions to master.

A motion having been made for further instructions to the master, and the master's minutes of the proceedings before him on the fifteenth of October, A. D. 1849, having been produced, the court, (Grier, justice,) thereupon, on the said twenty-ninth day of October, A. D. 1849, delivered a written opinion, containing directions to the master as to his report, which opinion is in the words and of the tenor following, to wit:

PACKER et al.
vs.
TROTTER.

On motion for instructions to the master.

OCTOBER 29, 1749.

GRIER, J.—When the opinion of the court was delivered in this case, no special instructions were given to the master, because we did not know whether any question would be raised between the relatives of the half-blood which our decision showed might possibly arise. But, as to all other points, it was considered final till reversed on appeal. It left no question open about the legitimacy of either stock of these claimants. The twenty years during which the suit has been pending may well be considered sufficient for all the numerous parties to establish their relationship to the testator. Volumes of testimony have been taken and filed; these have been referred at different times to a master to report; no exceptions have been taken to these reports, or doubts intimated as to their correctness, nor a hint of any disposition on the part of any of the claimants to question the legitimacy of Mary Aspden, the sister of testator. The (fact) of the marriage of the father to the mother of Mary is proved from the register of record of it in England. The anile gossip and tea-table scandal of the last century, which has been incidentally stated in the depositions of certain witnesses, was justly considered as wholly unworthy of comment or reliance, and the court have now decreed in favor of the descendants of Mary Harrison for a part, at least, of the money in contest. The testimony on these points was closed, and will not be opened, unless some grounds are laid by a bill of review.

Of course the duty of the master under this interlocutory decree or order would be, to take an account of the assets in the hands of the administrator for the purpose of distribution.

Also, to report who were the descendants of Mary Aspden living at the time of the testator's death, and by whom they are represented in court.

Also, what children of the nephews and nieces of the half blood, ex parte materna, werea live at that time, and by whom they were represented on the record.

And if any of the children of these nephews and nieces were deceased at the time of the testator's death, who are their descendants, and how represented on the record.

And whether there are any persons entitled to a share at the death of the testator who have not been made parties.

To report, also, what amount should be decreed to each of these parties on the supposition that the division is to be between both stocks of half blood relations.

And what the decree should give to each of the paternal half blood, if the maternal be excluded.

And lastly, what lands were held or claimed by the testator at the time he made his will or afterwards, and how held, whether by purchase or by descent, or devise, from either father or mother.

As the last question has been raised by the decision of the court, the master will use every means in his power to ascertain the fact, without being confined to the record. And, if new claimants are allowed to come in, or if it appears (that) there are persons entitled who have not been before the court, the master will take such testimony as will enable him to make a full report of all facts necessary to a final decree. But the legitimacy of either the Hartleys or Harrisons is not an open question.

Rule for commission to Washington county, Pennsylvania.

Afterwards, to wit, on the fourth day of January, A. D. 1850, on motion of John L. Newbold, esquire, attorney for Roger Hartley and others, petitioners and claimants in this cause, the court grant a rule to show cause why the said parties should not have leave to issue a commisssion to Washington county, Pennsylvania, to take testimony, upon two weeks' notice, and that the master include the evidence taken under said commission in his report to the court.

Petition of Daniel Luse and wife.

Afterwards, to wit, on the seventh day of January, A. D. 1850, the petition of Daniel Luse and Susannah, his wife, is presented by their solicitor, John L. Newbold, esquire; which petition being read and filed, and granted by the court, is in the words and of the tenor following, to wit:

To the honorable the judges of the circuit court of the United States, for the eastern district of Pennsylvania, in the third circuit, sitting in equity:

The petition of Daniel Luse and Susanna, his wife, late Susanna

Hartley, in right of said Susanna, of Guernsey county, Ohio, and citizens of the said State of Ohio, respectfully represents: That they are, as they firmly believe, entitled to have distribution made to them as the parties contemplated in and by the last will and testament of Matthias Aspden, deceased, late of the city of Philadelphia, which will is set forth in certain proceedings instituted in this honorable court, consisting of a bill filed by Samuel Packer against Henry Nixon, executor of Matthias Aspden, deceased, and the answer of the said Henry Nixon to the same, the same being filed as No. 1 to April sessions, 1828.

That the said Henry Nixon has since departed this life, and letters of administration de bonis non cum testamento annexo upon the estate of the said Matthias Aspden, deceased, were granted to Joseph Trotter; that Samuel Packer, the original complainant in this suit, has exhibited in this court his bill to revive the same against the said Joseph Trotter, administrator as aforesaid; and the said Joseph Trotter, as administrator of the said Matthias Aspden, did, on the 14th day of March, 1848, file his answer to the said bill of revivor.

That your petitioner, the said Susanna Luse, is one of the children of Thomas Hartley, who was a son of Roger Hartley, a half brother of the said Matthias Aspden, deceased; that the said Thomas Hartley, the father of your petitioner, Susanna Luse, departed this life on or about the month of August, A. D. 1814.

And your petitioners aver that the said Matthias Aspden was born in the State of Pennsylvania; that he was domiciled in the city of Philadelphia, in the State of Pennsylvania, at the time of making his said will, at the time of his death, and during the whole intermediate period.

Your petitioners pray that they may be admitted as parties to the said suit, for the purpose of claiming the funds in the hands of the said Joseph Trotter, administrator as aforesaid; and that your honors will be pleased to direct such inquiries to be made as to their respective claims as justice may require; and, finally, that the said fund may be decreed to those to whom it may in justice and equity appertain.

And your petitioners will ever pray, &c.

Petition of Lawson B. Stone and others.

Afterwards, to wit, on the eleventh day of January, A. D. 1850, the petition of Lawson B. Stone and others is presented by their solicitor, William B. Hieskell, esquire; which petition being read and filed, and granted by the court, is in the words and of the tenor following, to wit:

To the honorable the judges of the circuit court of the United States, for the eastern district of Pennsylvania, in the third circuit, sitting in equity:

The petition of Lawson B. Stone, a citizen of the State of Louisiana, and Thomas Balch, a citizen of the State of Pennsylvania, administrator of Thomas R. West, deceased, and also administrator of Thomas West Stone, deceased, respectfully showeth: That your peti-

tioners claim to be entitled to have distribution made to them of the fund admitted to be in the hands of the executor of the last will and testament of Matthias Aspden, deceased, or part thereof.

Your petitioner, Lawson B. Stone, is the only surviving child of Harriet Stone, deceased, who departed this life on or about the twenty-second day of September, A. D. 1823, prior to the decease of the said Matthias Aspden, the testator. The said Harriet was a daughter of Elizabeth West, deceased, formerly Elizabeth Kay, who was a daughter of Rebecca Kay, deceased, who was a sister of the half blood of Matthias Aspden, the testator.

Your petitioner, Thomas Balch, is the administrator, duly appointed by the register of wills, &c., in and for the city and county of Philadelphia, of Thomas R. West, deceased, and also of Thomas West Stone, deceased. The said Thomas R. West and the said Thomas West Stone both departed this life subsequent to the death of Matthias Aspden, the testator; the said Thomas R. West having died in or about the year 1828, and the said Thomas West Stone in or about the year 1841. The said Thomas R. West was a son of Elizabeth West, deceased, formerly Elizabeth Kay, who was a daughter of Rebecca Kay, deceased, who was a sister of the half blood of Matthias Aspden, the testator; the said Thomas West Stone was a son of Harriet Stone, deceased, herein before mentioned, who was a daughter of Elizabeth West, deceased, formerly Elizabeth Kay, who was a daughter of Rebecca Kay, deceased, who was a sister of the half blood of Matthias Aspden, the testator.

Your petitioners further show, that on or about the 18th day of August, 1840, Henry Nixon, the original defendant in this suit, who appeared herein as executor of the last will and testament of the said Matthias Aspden, deceased, departed this life, and thereupon letters of administration de bonis non cum testamento annexo were, on the 12th day of May, 1841, duly granted by the register of wills, &c., in and for the city and county of Philadelphia, to Joseph Trotter of the said city, which letters of administration still remain in full force and unrevoked.

That on the 10th day of September, 1841, Samuel Packer, the original complainant in this suit, exhibited in this court his bill to revive the same against the said Joseph Trotter, administrator as aforesaid.

Your petitioners aver that the said Matthias Aspden's domicil of origin was in Pennsylvania, and never was by him changed for a domicil of choice.

Your petitioners pray your honors to be admitted on the record as parties to the said suit, for the purpose of claiming the fund in the hands of the said Joseph Trotter, administrator as aforesaid, or a part thereof; and that your honors will be pleased to direct such inquiries to be made in regard to their claims as justice may require; and, finally, that the said fund may be decreed to them, if it may in justice and equity be so done.

And your petitioners will ever pray, &c.

Hartley, in right of said Susanna, of Guernsey county, Ohio, and citizens of the said State of Ohio, respectfully represents: That they are, as they firmly believe, entitled to have distribution made to them as the parties contemplated in and by the last will and testament of Matthias Aspden, deceased, late of the city of Philadelphia, which will is set forth in certain proceedings instituted in this honorable court, consisting of a bill filed by Samuel Packer against Henry Nixon, executor of Matthias Aspden, deceased, and the answer of the said Henry Nixon to the same, the same being filed as No. 1 to April sessions, 1828.

That the said Henry Nixon has since departed this life, and letters of administration de bonis non cum testamento annexo upon the estate of the said Matthias Aspden, deceased, were granted to Joseph Trotter; that Samuel Packer, the original complainant in this suit, has exhibited in this court his bill to revive the same against the said Joseph Trotter, administrator as aforesaid; and the said Joseph Trotter, as administrator of the said Matthias Aspden, did, on the 14th day of March, 1848, file his answer to the said bill of revivor.

That your petitioner, the said Susanna Luse, is one of the children of Thomas Hartley, who was a son of Roger Hartley, a half brother of the said Matthias Aspden, deceased; that the said Thomas Hartley, the father of your petitioner, Susanna Luse, departed this life on or about the month of August, A. D. 1814.

And your petitioners aver that the said Matthias Aspden was born in the State of Pennsylvania; that he was domiciled in the city of Philadelphia, in the State of Pennsylvania, at the time of making his said will, at the time of his death, and during the whole intermediate period.

Your petitioners pray that they may be admitted as parties to the said suit, for the purpose of claiming the funds in the hands of the said Joseph Trotter, administrator as aforesaid; and that your honors will be pleased to direct such inquiries to be made as to their respective claims as justice may require; and, finally, that the said fund may be decreed to those to whom it may in justice and equity appertain.

And your petitioners will ever pray, &c.

Petition of Lawson B. Stone and others.

Afterwards, to wit, on the eleventh day of January, A. D. 1850, the petition of Lawson B. Stone and others is presented by their solicitor, William B. Hieskell, esquire; which petition being read and filed, and granted by the court, is in the words and of the tenor following, to wit:

To the honorable the judges of the circuit court of the United States, for the eastern district of Pennsylvania, in the third circuit, sitting in equity:

The petition of Lawson B. Stone, a citizen of the State of Louisiana, and Thomas Balch, a citizen of the State of Pennsylvania, administrator of Thomas R. West, deceased, and also administrator of Thomas West Stone, deceased, respectfully showeth: That your peti-

tioners claim to be entitled to have distribution made to them of the fund admitted to be in the hands of the executor of the last will and testament of Matthias Aspden, deceased, or part thereof.

Your petitioner, Lawson B. Stone, is the only surviving child of Harriet Stone, deceased, who departed this life on or about the twenty-second day of September, A. D. 1823, prior to the decease of the said Matthias Aspden, the testator. The said Harriet was a daughter of Elizabeth West, deceased, formerly Elizabeth Kay, who was a daughter of Rebecca Kay, deceased, who was a sister of the half blood of Matthias Aspden, the testator.

Your petitioner, Thomas Balch, is the administrator, duly appointed by the register of wills, &c., in and for the city and county of Philadelphia, of Thomas R. West, deceased, and also of Thomas West Stone, deceased. The said Thomas R. West and the said Thomas West Stone both departed this life subsequent to the death of Matthias Aspden, the testator; the said Thomas R. West having died in or about the year 1828, and the said Thomas West Stone in or about the year 1841. The said Thomas R. West was a son of Elizabeth West, deceased, formerly Elizabeth Kay, who was a daughter of Rebecca Kay, deceased, who was a sister of the half blood of Matthias Aspden, the testator; the said Thomas West Stone was a son of Harriet Stone, deceased, herein before mentioned, who was a daughter of Elizabeth West, deceased, formerly Elizabeth Kay, who was a daughter of Rebecca Kay, deceased, who was a sister of the half blood of Matthias Aspden, the testator.

Your petitioners further show, that on or about the 18th day of August, 1840, Henry Nixon, the original defendant in this suit, who appeared herein as executor of the last will and testament of the said Matthias Aspden, deceased, departed this life, and thereupon letters of administration de bonis non cum testamento annexo were, on the 12th day of May, 1841, duly granted by the register of wills, &c., in and for the city and county of Philadelphia, to Joseph Trotter of the said city, which letters of administration still remain in full force and unrevoked.

That on the 10th day of September, 1841, Samuel Packer, the original complainant in this suit, exhibited in this court his bill to revive the same against the said Joseph Trotter, administrator as aforesaid.

Your petitioners aver that the said Matthias Aspden's domicil of origin was in Pennsylvania, and never was by him changed for a domicil of choice.

Your petitioners pray your honors to be admitted on the record as parties to the said suit, for the purpose of claiming the fund in the hands of the said Joseph Trotter, administrator as aforesaid, or a part thereof; and that your honors will be pleased to direct such inquiries to be made in regard to their claims as justice may require; and, finally, that the said fund may be decreed to them, if it may in justice and equity be so done.

And your petitioners will ever pray, &c.

Petition of James P. Fraser, sen'r, administrator, &c., and others.

Afterwards, to wit, on the first day of February, A. D. 1850, the petitions of James P. Fraser, sen., administrator, &c., and of Rebecca K. Bartram, administratrix, &c., are presented by their respective solicitors; which petitions, being read and filed, and granted by the court, are in the words and of the tenor following, to wit:

To the honorable the judges of the circuit court of the United States, for the eastern district of Pennsylvania, in the third circuit, sitting in equity.

The petition of James P. Fraser, sen., of the city of Philadelphia, and a citizen of the State of Pennsylvania, administrator of Miriam Jones, late Miriam Kay, and Eliza Wilson, late Eliza Kay, late of the county of Warren, in the State of Ohio, deceased, respectfully represents: That he is, as he firmly believes, entitled to have distribution made to him as one of the parties contemplated in and by the last will and testament of Matthias Aspden, deceased, late of the city of Philadelphia; which will is set forth in certain proceedings instituted in this honorable court, consisting of a bill filed by Samuel Packer against Henry Nixon, executor of Matthias Aspden, deceased, and the answer of the said Henry Nixon to the same; the same being filed as No. 1, to April sessions, 1828.

That the said Henry Nixon has since departed this life, and letters of administration de bonis non cum testamento annexo upon the estate of the said Matthias Aspden, deceased, were granted to Joseph Trotter. That Samuel Packer, the original complainant in this suit, has exhibited in this court his bill to revive the same against the said Joseph Trotter, administrator as aforesaid; and the said Joseph Trotter, as administrator of the said Matthias Aspden, did, on the 14th day of March, 1848, file his answer to the said bill of revivor.

That the said Miriam Jones and Eliza Wilson were children of Matthias Kay, who was a son of Rebecca Kay, a half sister of the said Matthias Aspden, deceased; that the said Rebecca Kay departed this life during the lifetime of the said Matthias Aspden, and the said Matthias Kay departed this life in or about the year 1813.

That the said Miriam Jones and Eliza Wilson, children of the said Matthias Kay, departed this life in or about the month of August, 1849, intestate, and that letters of administration upon their estates, respectively, were duly granted by the register of wills in and for the city and county of Philadelphia, to your petitioner, James P. Fraser, senior, on the eighth day of January, A. D. 1850; which said letters of administration still remain in full force and unrevoked.

Your petitioner prays that he may be admitted as a party to the said suit, for the purpose of claiming the funds in the hands of the said Joseph Trotter, administrator as aforesaid, and that your honors will be pleased to direct such inquiries to be made as to his claim as justice

may require; and, finally, that the said fund may be decreed to those to whom it may in justice and equity appertain.

And your petitioners will ever pray, &c.

JNO. L. NEWBOLD,
Solicitor for James P. Fraser, senior.

Petition of Rebecca K. Bartram, administratrix, &c.

To the honorable the judges of the circuit court of the United States, for the eastern district of Pennsylvania, in the third circuit, sitting in equity.

The petition of Rebecca K. Bartram, of the city of Philadelphia, and a citizen of the State of Pennsylvania, administratrix of Rebecca Fowler, widow, late of New Jersey, deceased, respectfully represents, that she is, as she firmly believes, entitled to have distribution made to her as one of the parties contemplated in and by the last will and testament of Matthias Aspden, deceased, late of the city of Philadelphia; which will is set forth in certain proceedings instituted in this honorable court, consisting of a bill filed by Samuel Packer against Henry Nixon, executor of Matthias Aspden, deceased, and the answer of the said Henry Nixon to the same; the same being filed as No. 1, to April sessions, 1828.

That the said Henry Nixon has since departed this life, and letters of administration de bonis non cum testamento annexo, upon the estate of the said Matthias Aspden, deceased, were granted to Joseph Trotter. That Samuel Packer, the original complainant in this suit, has exhibited in this court his bill to revive the same against the said Joseph Trotter, administrator as aforesaid, and the said Joseph Trotter, as administrator of the said Matthias Aspden, did, on the 14th day of March, 1848, file his answer to the said bill of revivor.

That the said Rebecca Fowler was one of the children of Rebecca Kay, deceased, who was a sister of the half blood of the said Matthias Aspden, deceased; that the said Rebecca Fowler departed this life on or about the twenty-first day of August, A. D. 1845, intestate, and that letters of administration upon her estate were duly granted by the register of wills in and for the city and county of Philadelphia, to your petitioner, on the twenty-fourth day of December, one thousand eight hundred and forty-nine; which said letters of administration still remain in full force and unrevoked.

Your petitioner prays that she may be admitted as a party to the said suit, for the purpose of claiming the funds in the hands of the said Joseph Trotter, administrator as aforesaid, and that your honors will be pleased to direct such inquiries to be made, as to her claim, as justice may require; and, finally, that the said fund may be decreed to those to whom it may in justice and equity appertain.

And your petitioner will ever pray, &c.

BENJ'N TILGHMAN,
JNO. L. NEWBOLD,
Solicitors for Rebecca K. Bartram, adm'x.

Rule for commission amended.

Afterwards, to wit, on the said first day of February, 1850, the rule for a commission to Washington county, Pennsylvania, is amended, on the motion of J. L. Newbold, esquire, so as to include Greene county; and James A. Black, Charles A. Black, and William Boone, esquires, of Greene county, or either of them, are named as additional commissioners on the part of Roger Hartley, and others.

Petition of Peter Pegg and others.

Afterwards, to wit, on the first day of March, A. D. 1850, the petition of Peter Pegg and others, praying to be made parties, is presented by their solicitor, Christopher Fallon, esquire; which petition, being read and filed, and granted by the court, is in the words and of the tenor following, to wit:

To the honorable the judges of the circuit court of the United States, for the eastern district of Pennsylvania, sitting in equity.

The petition of Peter Pegg, Daniel Pegg, Sarah Pegg, Uriah Wood and Dorathea Wood, late Dorathea Pegg, his wife, William Jacobs and Martha Jacobs, late Martha Pegg, his wife, Peter Wilson and Susannah Wilson, late Susannah Pegg, his wife, respectfully showeth, that they are, as they firmly believe, entitled to have distribution made to them, under the last will and testament of Matthew Aspden, deceased; a copy whereof is set forth in the proceedings in above case.

That the said Peter Pegg, Daniel Pegg, Sarah Pegg, Dorathea Wood, late Dorathea Pegg, Martha Jacobs, late Martha Pegg, Susannah Wilson, late Susannah Pegg, are children of Martha Pegg, late Martha Hartley, deceased, who was a daughter of James Hartley, deceased, who was the son of Roger Hartley, deceased, who was the half brother of said Matthias Aspden, deceased.

Your petitioners pray, therefore, that they may be admitted as parties to [the] above suit, for the purpose of claiming the funds in the hands of Joseph Trotter, administrator of the estate of Matthias Aspden, deceased, or in the hands of such other person as may hold the same, or a distributive part of same; and that your honors will be pleased to direct such inquiry to be made, as to their claims, as justice may require; and, finally, that said funds, or such distributive portion thereof as may be just and right, may be decreed to be paid to your petitioners, in such proportions as may be just and equitable.

And they will ever pray, &c.

Rule for commissions to Greenfield, &c.

Afterwards, to wit, on the same day, on motion of C. Fallon, esquire, a rule is granted for commissions, on behalf of Peter Pegg and others, to Greenfield, Washington county, Pennsylvania, Uniontown, Fayette county, Pennsylvania, and New Lisbon, Columbiana county, Ohio.

Order to file report.

Afterwards, to wit, on the ninth day of March, A. D. 1850, on motion of W. M. Tilghman, esquire, it is ordered by the court, that the master, to whom this case was referred on the twenty-fourth of September, 1849, do file his report on or before the first day of June next; and that all claimants who shall not have established their claims on or before the sixteenth day of May next, be excluded from any hearing before the master.

Petition of Daniel Peggs and others.

Afterwards, to wit, on the fourteenth day of March, A. D. 1850, the petition of Daniel Peggs and others, praying to be made parties, is presented by their solicitor, M. Russell Thayer, esquire; which petition being read and filed, and granted by the court, is in the words and of the tenor following, to wit:

To the honorable the judges of the circuit court of the United States, for the eastern district of Pennsylvania, sitting in equity.

The petition of Daniel Peggs, James Peggs, John Wilson, Edward Wilson, Alexander Lawrence and Agnes, his wife, late Agnes Wilson, John Adams, Thomas Adams, Jacob Adams, Francis Adams, Elizabeth McConnaughy, late Elizabeth Adams, Elias Maple and Maria B., his wife, late Maria B. Adams, Peter Wilson and Susanna, his wife, late Susanna Peggs, and Margaret Adams, respectfully showeth: That they, the said Daniel Peggs, James Peggs, John Wilson, Edward Wilson, Agnes Lawrence, John Adams, Thomas Adams, Jacob Adams, Francis Adams, Elizabeth McConnaughy, Maria B. Adams, Peter Wilson, Susanna Wilson, and Margaret Adams, are descendants of Roger Hartley, deceased, who was a brother of the half blood of Matthias Aspden, the testator; and that they are entitled to have distribution made to them under the last will and testament of the said Matthias Aspden, a copy of which is set forth in the proceedings in this cause. Your petitioners therefore pray, that they may be admitted as parties to the above suit, for the purpose of claiming the funds in the hands of Joseph Trotter, administrator as aforesaid, or such portion thereof as your honors may find them entitled to receive; and that your honors will direct such inquiry to be made as to their claims as justice may require; and, finally, that said funds, or such distributive portion thereof as may be just and right, may be decreed to be paid to your petitioners in such proportions as may be just and equitable.

And your petitioners will ever pray, &c.

Petition of Alfred Howell, administrator, &c.

Afterwards, to wit, on the twenty-first day of March, A. D. 1850, the petition of Alfred Howell, administrator of Elizabeth Wilson, pray

ing to be made a party, is presented by his solicitor, C. Fallon, esquire; which petition being read and filed, is in the words and of the tenor following, to wit:

To the honorable the judges of the circuit court of the United States, for the eastern district of Pennsylvania, sitting in equity.

The petition of Alfred Howell, administrator of the estate and effects of Elizabeth Wilson, deceased, respectfully showeth: That he is, as he firmly believes, entitled to have distribution made to him, under the last will and testament of Matthias Aspden, deceased, a copy whereof is set forth in the proceedings in the above case.

That the said Elizabeth Wilson, late Elizabeth Pegg, was one of the children of Martha Pegg, late Martha Hartley, deceased, who was a daughter of James Hartley, deceased, who was the son of Roger Hartley, deceased, who was the half brother of said Matthias Aspden, deceased.

Your petitioner prays, therefore, that he may be admitted as a party to above suit, for the purpose of claiming the funds in the hands of Joseph Trotter, administrator of the estate of Matthias Aspden, deceased, or in the hands of such other person as may hold the same, or a distributive part of same; and that your honors will be pleased to direct such inquiry to be made as to his claim as justice may require; and, finally, that said funds, or such distributive portion thereof as may be just and right, may be decreed to be paid to your petitioner, in such proportion as may be just and equitable.

And he will ever pray, &c.

Whereupon, on the same day, the prayer of the petitioner is granted by the court. And it is also ordered by the court, on motion of the solicitor aforesaid, that the name of the aforesaid petitioner be included in the commissions about to issue to Washington and Fayette counties, Pennsylvania.

Petition of Jabez Burchard, assignee, &c.

Afterwards, to wit, on the sixth day of April, A. D. 1850, the petition of Jabez Burchard, assignee of Edmund Brown, a bankrupt, praying to be admitted a party, is presented by his solicitor, R. P. Kane, esquire; which petition being read and filed, and granted by the court, is in the words and of the tenor following, to wit:

To the honorable the judges of the circuit court of the United States, for the eastern district of Pennsylvania, in the third circuit, sitting in equity.

The petition of Jabez Burchard, of the city of Philadelphia, and a citizen of the State of Pennsylvania, assignee in bankruptcy of Edmund Brown, respectfully showeth: That on the 6th day of August, 1849, one Edmund Brown, of the city of Philadelphia, in company

with certain others, presented to this honorable court their petition, praying that certain amendments, therein set forth, might be made to their former petition and amended petition, and praying to be admitted on the record of this court as parties to the bill exhibited on the 10th day of September, 1841, by Samuel Packer, the original complainant in this suit, to revive the same against Joseph Trotter, administrator de bonis non cum testamento annexo of the estate of Matthias Aspden, deceased.

That said petition was filed on the 6th day of August, 1849, and ordered accordingly.

Your petitioner respectfully showeth, that on the 20th day of January, A. D. 1843, the said Edmund Brown was declared and ordered a bankrupt, under and pursuant to the provisions of the act of Congress, entitled "An act to establish a uniform system of bankruptcy throughout the United States," passed August 19th, 1841; and that, on the same day, your petitioner was appointed assignee of his estate.

Wherefore your petitioner prays this honorable court that he may be admitted a party to this suit, in the place of the said Edmund Brown, for such interest as he, the said Edmund, may have therein.

Petition of James Edgar, executor, &c., and others.

Afterwards, to wit, on the twenty-sixth day of April, A. D. 1850, the petition of James Edgar, executor of Edward E. Packer, and others, is presented by their solicitor, George W. Harris, esquire, which petition, being read and filed, and granted by the court, is in the words and of the tenor following, to wit:

To the honorable the judges of the circuit court, above stated.

The persons who are hereafter named, claim to be entitled to a part of the moneys in dispute in the proceedings in the case above referred to, viz:

1. James Edgar, executor of the will of Edward E. Packer, who is named in the pedigree printed in the course of this proceeding, in the maternal line, in the 5th degree, No. 24.

2. Eliza Thornton, administrator of the estate of Rhoda Reynolds, named in same pedigree, same degree, No. 7.

3. James W. Packer, administrator, &c., of James Packer, who is named in same pedigree, same degree, No. 25.

4. Joseph Hammitt and Elizabeth Hammitt, administrators, &c., of John Hammitt, deceased, named in same pedigree, same degree, No. 52.

5. John R. Richards, administrator, &c., of Rachel Richards, same pedigree, same degree, No. 35, second column.

6. Joseph String, administrator, &c., of Elizabeth Pedrick, same pedigree, same degree, No. 125.

7. John Y. Brown, administrator, &c., of John Paxton, deceased same pedigree, same degree, No. 126.

8. Jesse P. Borton, administrator, &c., of Rebecca Vansciver, in same pedigree, same degree, No. 20.
9. Luke Duffield, administrator, &c., of John Duffield, see same pedigree, same degree, No. 5.
10. Lewis Waterman, administrator, &c., of Susan Cox, see same pedigree, 5th degree, No. 9.
11. Joseph Hunt, administrator, &c., of Rhoda Borton, same pedigree, 4th degree, No. 28.
12. William Sharp, administrator, &c., of Packer Bee, see same pedigree, 5th degree, No. 13.
13. Jonas Cattel, administrator, &c., of Jonas Cattel, same pedigree, same degree, No. 120.
14. Hannah W. Easeley, same pedigree, 6th degree, No. 97.
15. Rachel, Samuel, Thomas, John, and Mary Hammitt, children of John Hammitt, same pedigree, 5th degree, No. 43.
16. Ann McKean, same pedigree, 5th degree, No. 100.
17. George Cattel, administrator, &c., of the estate of Amos Cattel, same pedigree, 5th degree, No. 119.
18. Sarah Watson, same pedigree, 5th degree, No. 93.
19. Mark Heritage, same *degree*, 6th degree, No. 124.
20. Elizabeth Turner, same pedigree, 5th degree, No. 107.
21. Joseph H. Schenck, administrator, &c., of Keturah Schenck, same pedigree, 5th degree, No. 53.
22. Ann Sweaton, same pedigree, 5th degree, No. 108.
23. Elizabeth Packer, same pedigree, 5th degree, No. 10.
24. Daniel Packer, same pedigree, 5th degree, No. 11.
25. Joseph Hammitt, same pedigree, 5th degree, No. 55.
26. Jeremiah Carter, same pedigree, 5th degree, No. 105.
27. Nathan Cattel, son of Nathan Cattel, same pedigree, 6th degree, No. 118.
28. Bartholemew Carter, in right of Jacob Shue, who was a grandson of Martha Taylor, named in table second of same pedigree, No. 1, third column.

Your petitioner respectfully asks that the persons herein before severally named be permitted to become parties in the case herein before referred to, and to the proceedings to revive or continue the same.

Petition of J. West Nevins and others.

Afterwards, to wit, on the third day of May, A. D. 1850, the petition of J. West Nevins and others, praying to be made parties, is presented by their solicitor, Eli K. Price, esquire; which petition being read and filed, and granted by the court, is in the words and of the tenor following, to wit:

To the honorable judges of the circuit court of the United States, for the eastern district of Pennsylvania.

The petition of J. West Nevins, administrator of Mary Ann Church,

deceased; of Jane W. Hornor, widow of John K. West; of Samuel Nevins and Eliza, his wife, in her right; of Charles W. Hornor, administrator of Mary Evens, deceased; of Joseph Kay and Mary, his wife, in her right; and of William E. Kay and Henrietta, his wife, in her right, respectfully represents, that said Mary Church, Jane W. Hornor, John K. West, Eliza Nevins, Mary Evens, Mary Key, and Henrietta Key, were living at the date of the decease of Matthias Aspden, deceased. And petitioners claim to be entitled as legatees, or representatives of legatees, of said Matthias Aspden, under his will in proof in this cause, by their description in said will. The said named parties stood in relation to the testator as follows: One of the six children of his mother Rebecca, by Roger Hartley, was Rebecca Key, wife of John Key, who died before the testator, leaving children: I. The said Mary Church. II. Isaac Key, who left, at his death before said testator, as his only heirs, the said Mary Key and Henrietta Key. III. And Elizabeth, wife of John West, who died before the testator, leaving to survive him the said Jane W. Hornor, John K. West, Eliza Nevins, and Mary Evens, and the descendants of two other children. Your petitioners have duly made proofs of the above facts before the master in this cause, and produced the letters of administration on the estates of said decedents. They pray, therefore, to be admitted as parties to said cause; and that this hon. court may decree them their shares of the funds of the estate of said Matthias Aspden, as to right and equity belong.

Petition of George Rundle, administrator of Mary Bronson.

Afterwards, to wit, on the thirteenth day of May, A. D. 1850, the petition of George Rundle, administrator of Mary Bronson, is presented by his said solicitor; which petition being read and filed, and granted by the court, is in the words and of the tenor following, to wit:

To the honorable the judge of the circuit court of the United States, for the eastern district of Pennsylvania.

The petition of George Rundle, administrator of Mary Bronson, deceased, respectfully represents, that the said Mary Bronson was living at the time of the decease of the said Matthias Aspden, the testator, and was entitled, as your petitioner firmly believes, to have a distribution made to her as a party contemplated in and by the will of the said testator in proof in this cause. The said Mary Bronson was one of the three children of Mary White; the other two children were Thomas H. White and Elizabeth Macpherson. The said Mary White was a daughter of Mary Harrison, formerly Mary Aspden, only child of Matthias Aspden, the father of testator, by a former marriage, and consequently the testator's sister of the half blood. These facts have been duly proved before the master in this cause, and the letters of administration to your petitioner on the estate of said decedent, Mary Bronson, produced. Your petitioner avers that the said Matthias Aspden,

the testator, was born in the State of Pennsylvania, and that he was domiciled in said State at the time of making his said will, and also at the time of his death, and also the whole time between making his said will and his death. He prays, therefore, to be admitted as a party to said cause; and that this honorable court may decree him the share of the fund of the estate of said Matthias Aspden, the testator, as to right and equity belongs.

Petition of Joseph Hinchman, administrator, &c.

Afterwards, to wit, on the fifteenth day of May, A. D. 1850, the petitions of Joseph Hinchman, administrator of James and William Hinchman, and of Thomas Adams, administrator of Barsheba Adams, are presented by their respective solicitors; which petitions being read and filed, and granted by the court, are in the words and of the tenor following, to wit:

To the honorable the judge of the circuit court of the United States, for the eastern district of Pennsylvania, in the third district, sitting in equity.

The petition of Joseph Hinchman, of Delaware township, in the county of Camden, in the State of New Jersey, farmer, administrator de bonis non of William Hinchman, and also of James Hinchman, deceased, respectfully showeth: That, on the fifth day of June, A. D. one thousand eight hundred and forty-eight, your petitioner, as surviving administrator of the goods and chattels, rights and credits, which were of James Hinchman, late of the county of Burlington, in the State of New Jersey aforesaid, who died intestate; and also as administrator of the goods and chattels, rights and credits, which were of William Hinchman, late of the county of Gloucester, now Camden county, in the State of New Jersey, who died intestate, presented his petition to your honorable court, setting forth that he, as administrator aforesaid, was, as he firmly believed, entitled to have distribution made to him as the party contemplated in and by the last will and testament of Matthias Aspden, deceased, late of the city of Philadelphia; which will is set forth in certain proceedings instituted in this honorable court, consisting of a bill filed by Samuel Packer against Henry Nixon, executor of Matthias Aspden, deceased, and the answer of the said Henry Nixon, the same being filed as No. 1, to April sessions, 1828.

That the said Henry Nixon had since departed this life, and letters of administration de bonis non cum testamento annexo upon the estate of the said Matthias Aspden, deceased, were granted to Joseph Trotter. That Samuel Packer, the original complainant in this suit, had exhibited in this court his bill to revive the same against the said Joseph Trotter, administrator as aforesaid; and the said Joseph Trotter, administrator of the said Matthias Aspden, did, on the 14th day of March, 1848, file his answer to the said bill of revivor.

That the above named James Hinchman and William Hinchman

were children of William Hinchman, the elder, and Ann, his wife, late Ann Hartley; which Ann Hartley was the daughter of Rebecca Hartley, the mother of the said Matthias Aspden, by her first husband, Roger Hartley, deceased; and that the said James Hinchman and William Hinchman, deceased, sons of the said William Hinchman, the elder, deceased, were, at the time of the death of the said Matthias Aspden, deceased, the testator, nephews of the half blood of the said Matthias Aspden, and his next of kin. And your petitioner averred that the said Matthias Aspden, the testator, was born in the State of Pennsylvania, and that he was domiciled in the State of Pennsylvania at the time of making his said will, and also at the time of his death, and also during the whole period which intervened between the making of the said will and his death.

And further setting forth, that the said James Hinchman died intestate on or about the month of February, 1825, after the death of the said Matthias Aspden, the testator, and letters of administration upon his estate were duly granted and issued by the surrogate of the said county of Burlington, in the State of New Jersey, on the 1st day of March, A. D. 1825, unto your petitioner, the said Joseph Hinchman, of the county of Gloucester, in the State of New Jersey aforesaid, and Thomas Hollingshead, of the county of Burlington, in the State of New Jersey aforesaid, since deceased, and whom your petitioner hath survived; which said letters of administration were in full force and unrevoked. That the said William Hinchman, son of William Hinchman, the elder, died intestate on or about the 1st day of February, A. D. 1826, after the death of the said Matthias Aspden, the testator, and letters of administration upon his estate were duly granted and issued by the surrogate of the county of Gloucester, in the State of New Jersey aforesaid, on the 18th day of February, A. D. 1826, unto your petitioner, the said Joseph Hinchman, which letters of administration were in full force and unrevoked; and praying that he, your petitioner, might be admitted as a party, as administrator as aforesaid, to the said suit, for the purpose of claiming the funds in the hands of the said Joseph Trotter, administrator as aforesaid, and that your honors would be pleased to direct such inquiries to be made as to his claim as justice might require; and, finally, that the said fund might be decreed to those to whom it might in justice and equity appertain. And that your petitioner was duly admitted, as administrator aforesaid, a party in the said suit.

And your petitioner further showeth, that, since the presenting of the said petition, letters of administration de bonis non upon the estate of the above named James Hinchman, and also letters of administration de bonis non upon the estate of the above named William Hinchman, were duly granted and issued by Thomas C. Bunting, register for the probate of wills and granting letters of administration in and for the city and county of Philadelphia, in the commonwealth of Pennsylvania, on the 2d day of January, 1850, to your petitioner; which said letters are in full force and unrevoked.

Wherefore your petitioner prays your honors to be admitted on the record as administrator de bonis non of the said James Hinchman, and as administrator de bonis non of the said William Hinchman, by virtue of the letters of administration de bonis non granted and issued to him by the said Thomas C. Bunting, register as aforesaid, as a party to the said revived suit, for the purposes set forth in his original petition. And, &c.

JOSEPH HINCHMAN,
B. NEWCOMB,
Solicitor for petitioner.

The above named Joseph Hinchman being duly affirmed, on his solemn affirmation saith, that the facts set forth in the foregoing petition are true to the best of his knowledge and belief.

JOSEPH HINCHMAN.

Affirmed and subscribed, January 5, 1850, before
THOMAS D. SMITH, *Alderman.*

Petition of Thomas Adams, administrator, &c.

To the honorable the judges of the circuit court of the United States, in and for the eastern district of Pennsylvania, in the third circuit.

The petition of Thomas Adams, administrator of the goods, chattels, rights, credits, and effects of Barsheba Adams, deceased, formerly Barsheba Hartley, and late the wife of your petitioner, respectfully showeth: That your petitioner, in right of his said wife, was, upon his petition filed in said cause, admitted as a party to the original bill therein; and afterwards, on the 8th day of June, in the year 1835, this honorable court granted leave to amend the said bill; and that your petitioner, in the said right, was admitted as a party to the said amended bill on the sixth day of July, in the year last aforesaid.

That the said Henry Nixon, the respondent, departed this life on or about the 18th day of August, in the year 1840, and letters of administration, with the will of the said Matthias Aspden annexed, were granted by the register of wills for the city and county of Philadelphia unto Joseph Trotter, of said county, on the twelfth day of July, in the year 1841; and that the said Joseph Trotter ever since acted as said administrator, and became party to the said bill.

That the original plaintiff in the said cause exhibited in this court, on the tenth day of September, in the year 1841, his bill to revive the said cause against the said administrator of Matthias Aspden, deceased, who became party defendant thereto.

That your petitioner's wife, the said Barsheba, departed this life on or about the twentieth day of July, in the year 1837; that your petitioner having, ever since the said suit was instituted, and long before that time, resided in the State of Ohio, has, on the fourth day of Feb-

ruary, in the year 1850, obtained letters of administration to his said deceased wife's estate, from the register of wills for the city and county of Philadelphia.

Your petitioner therefore prays that he may be admitted as a party on the record to the said suit, for the purpose of claiming the funds admitted to be in the possession of the said administrator of Matthias Aspden, deceased, or such part thereof as to your petitioner may appear to your honors justly and equitably to appertain.

THOMAS ADAMS,
Administrator.

February 4th, 1850.

Thomas Adams, the within named administrator, being sworn, deposes and says, that the facts stated in the within written petition are true, to the best of his knowledge and belief.

THOMAS ADAMS,
Administrator.

Sworn and subscribed before me, this fourth day of February, A. D. 1850.

GEORGE PLITT,
U. S. Commissioner.

Petitions of Ann Pardee and others.

Afterwards, to wit, on the seventeenth day of May, A. D. 1850, the petitions of Ann Pardee and others; of John Hinchman and others; of Aaron Zane and Joseph Ellis, administrators of Samuel C. Zane, and of Aaron Zane and Joseph Ellis, administrators of Sarah Champion, praying to be admitted parties, are presented by their respective solicitors; which petitions, being read and filed, and granted by the court, are in the words and of the tenor following, to wit:

To the honorable the judges of the circuit court of the United States, for the eastern district of Pennsylvania, in the third circuit, sitting in equity.

The petition of Ann Pardee, widow, (late Ann Kay,) of John Kay, both of Greene county, Ohio; of Charles Kay, in his own right, and of Charles Kay, administrator of Rebecca Kay, deceased, of Columbiana county, Ohio, and citizens of the State of Ohio, respectfully represents, that they are, as they firmly believe, entitled to have distribution made to them, as the parties contemplated in and by the last will and testament of Matthias Aspden, deceased, late of the city of Philadelphia, which will is set forth in certain proceedings instituted in this honorable court, consisting of a bill filed by Samuel Packer against Henry Nixon, executor of Matthias Aspden, deceased, and the answer of the said Henry Nixon to the same; the same being filed as No. 1, to April sessions, 1828. That the said Henry Nixon has since departed this life, and letters of administration de bonis non cum testamento

annexo upon the estate of the said Matthias Aspden, deceased, were granted to Joseph Trotter. That Samuel Packer, the original complainant in this suit, has exhibited in this court his bill to revive the same against the said Joseph Trotter, administrator as aforesaid; and the said Joseph Trotter, administrator of the said Matthias Aspden, did, on the fourteenth day of March, 1848, file his answer to the said bill of revivor.

Your petitioners, the said Ann Pardee, John Kay, Charles Kay, and Rebecca Kay, are children of Matthias Kay, deceased, who was a son of Rebecca Kay, deceased, whose maiden name was Hartley, and who was a half sister of the said Matthias Aspden, deceased.

That the said Rebecca Kay, the mother of Matthias Kay, died in or about the year 1811; and the said Matthias Kay died in or about the year 1816.

And your petitioners aver that the said Matthias Aspden was born in the State of Pennsylvania; that he was domiciled in the city of Philadelphia, in the said State of Pennsylvania, at the time of making his said will, at the time of his death, and during the whole intermediate period.

That the said Rebecca Kay, deceased, the daughter of the said Matthias Kay, departed this life in or about the year 1827, intestate, and that letters of administration upon her estate were, on the 20th day of March, 1850, duly granted by the register of wills in and for the city and county of Philadelphia unto your petitioner, Charles Kay, as administrator, which said letters remain in full force and unrevoked.

Your petitioners pray that they may be admitted as parties to the said suit, for the purpose of claiming the funds in the hands of the said Joseph Trotter, administrator as aforesaid, and that your honors will be pleased to direct such inquiries to be made as to their respective claims as justice may require; and, finally, that the said fund may be decreed to them to whom it may in justice and equity appertain.

And your petitioners will ever pray, &c.

JNO. L. NEWBOLD,
Sol. for petitioners.

Petition of John Hinchman and others.

To the honorable the judges of the circuit court of the United States, in and for the eastern district of Pennsylvania.

The petition of John Hinchman, Jacob Hinchman, William Hinchman, and Thomas Warrington and Ann, his wife, late Ann Hinchman, in right of the said Ann, all of the State of New Jersey, respectfully showeth: That your petitioners are, as they firmly believe, entitled to have distribution made to them as the parties contemplated in and by the will of Matthias Aspden, deceased, late of the city of Philadelphia; which will is set forth in certain proceedings instituted in this honorable court, consisting of a bill filed by Samuel Packer against Henry Nixon, executor of Matthias Aspden, deceased, and the answer of the said

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Henry Nixon; the same being filed as No. 1, to April sessions, 1828. That the said Henry Nixon has since departed this life, and letters of administration de bonis non cum testamento annexo upon the estate of the said Matthias Aspen, deceased, are granted to Joseph Trotter. That Samuel Packer, the original complainant in this suit, has exhibited in this court his bill to revive the same against the said Joseph Trotter, administrator as aforesaid; and the said Joseph Trotter, administrator of the said Matthias Aspden, did, on the fourteenth day of March, one thousand eight hundred and forty-eight, file his answer to the said bill of revivor.

That the said John, Jacob, William, and Ann, are children of John Hinchman, who was a son of Ann Hinchman, whose maiden name was Hartley, and who was a half sister of the said Matthias Aspden; and that both John Hinchman, the elder, and his mother died before the testator. The said Ann has lately, to wit, in the year 1848, intermarried with the said Thomas Warrington.

Your petitioners aver that the said Matthias Aspden, the testator, was born in the State of Pennsylvania; and that he was domiciled in the said State of Pennsylvania at the time of making his said will, and also at the time of his death, and also during the whole period which intervened between the making of the said will and his death.

Your petitioners pray that they may be admitted as parties to the said suit, for the purpose of claiming the fund in the hands of the said executor; and that your honors will be pleased to direct such inquiries to be made as to their claim as justice may require; and, finally, that the said fund may be decreed to those to whom it may in justice and equity appertain.

And your petitioners will ever pray, &c.

JNO. M. READ,
Sol. for petitioners.

Petition of Aaron Zane and Joseph Ellis, administrators, &c.

To the honorable the judges of the circuit court of the United States, in and for the eastern district of Pennsylvania.

The petition of Aaron Zane and Joseph Ellis, administrators of Samuel C. Zane, late of the State of New Jersey, deceased, respectfully showeth: That your petitioners are, as they firmly believe, entitled to have distribution made to them, as the parties contemplated in and by the will of Matthias Aspden, deceased, late of the city of Philadelphia, which will is set forth in certain proceedings instituted in this honorable court, consisting of a bill filed by Samuel Packer against Henry Nixon, executor of Matthias Aspden, deceased, and the answer of the said Henry Nixon; the same being filed as No. 1, to April sessions, 1828. That the said Henry Nixon has since departed this life, and letters of administration de bonis non cum testamento annexo upon the estate of the said Matthias Aspden, deceased, are granted to Joseph Trotter. That Samuel Packer, the original complainant in this suit,

has exhibited in this court his bill to revive the same against the said Joseph Trotter, administrator as aforesaid; and the said Joseph Trotter, administrator of the said Matthias Aspden, did, on the fourteenth day of March, one thousand eight hundred and forty-eight, file his answer to the said bill of revivor.

That the said Samuel C. Zane was a son of Bersheba Zane, whose maiden name was Hartley, and who was a half sister of the said Matthias Aspden, deceased. That the said Samuel C. Zane was living at the death of the testator, had died in the year 1836 intestate, and that letters of administration upon his estate were granted on the 28th June, 1847, by the register of wills for the city and county of Philadelphia, unto your petitioners, which said letters remain in full force and unrevoked.

Your petitioners aver that the said Matthias Aspden, the testator, was born in the State of Pennsylvania, and that he was domiciled in the said State of Pennsylvania at the time of making his said will; and also at the time of his death, and also during the whole period which intervened between the making of the said will and his death.

Your petitioners pray that they may be admitted as parties to the said suit, for the purpose of claiming the fund in the hands of the said executor; and that your honors will be pleased to direct such inquiries to be made as to their claim as justice may require; and, finally, that the said fund may be decreed to those to whom it may in justice and equity appertain.

And your petitioners will ever pray, &c.

JOHN M. READ,
Sol. for petitioners.

Petition of Aaron Zane and Joseph Ellis, administrators of Sarah Champion.

To the honorable the judges of the circuit court of the United States, in and for the eastern district of Pennsylvania.

The petition of Aaron Zane and Joseph Ellis, administrators de bonis non of Sarah Champion late of the State of New Jersey, deceased, respectfully showeth: That your petitioners are, as they firmly believe, entiled to have distribution made to them as the parties contemplated in and by the will of Matthias Aspden, deceased, late of the city of Philadelphia, which will is set forth in certain proceedings instituted in this honorable court, consisting of a bill filed by Samuel Packer against Henry Nixon, executor of Matthias Aspden, deceased, and the answer of the said Henry Nixon; the same being filed as No. 1, to April sessions, 1828. That the said Henry Nixon has since departed this life, and letters of administration de bonis non cum testamento annexo, upon the estate of the said Matthias Aspden, deceased, are granted to Joseph Trotter. That Samuel Packer, the original complainant in this suit, has exhibited in this court his bill to revive the same against the said Joseph Trotter, administrator as aforesaid; and the said Joseph Trotter, administrator of the said Matthias Aspden, did,

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on the fourteenth day of March, one thousand eight hundred and forty-eight, file his answer to the said bill of revivor.

That the said Sarah Champion, whose maiden name was Zane, was a daughter of Bersheba Zane, whose maiden name was Hartley, and who was a half sister of the said Matthias Aspden, deceased. That the said Sarah intermarried with Samuel Champion, both of whom were living at the death of the testator, and became parties to this suit. That the said Sarah Champion died in 1834, and her said husband is also dead; the said Sarah having died intestate.

Your petitioners further represent that letters of administration upon the estate of the said Sarah Champion were granted on the 15th November, 1837, by the register of wills for the city and county of Philadelphia, to Thomas Redman, who, having also departed this life, letters of administration de bonis non upon the unadministered whole of the said Sarah Champion, were granted to your petitioners by the said register on the 28th June, 1847, which said letters remain in full force and unrevoked.

Your petitioners aver that the said Matthias Aspden, the testator, was born in the State of Pennsylvania, and that he was domiciled in the said State of Pennsylvania at the time of making of his said will, and also at the time of his death, and also during the whole period which intervened between the making of the said will and his death.

Your petitioners pray that they may be admitted as parties to the said suit, for the purpose of claiming the fund in the hands of the said executor, and that your honors will be pleased to direct such inquiries to be made as to their claim as justice may require; and, finally, that the said fund may be decreed to those to whom it may in justice and equity appertain. And your petitioners will ever pray, &c.

JOHN M. READ,
Sol. for petitioners.

Master's report, under reference of September, 1849.

Afterwards, to wit, on the twenty-first day of September, A. D. 1850, the report of the master, under the reference of the twenty-fourth day of September, 1849, is presented to the court; which report, and the exhibits accompanying it, being read and filed, are in the words and of the tenor following, to wit:

Estate of Matthias Aspden, deceased.

PACKER
vs.
NIXON.

Circuit court United States, April term, 1828, No. 1.

In equity.

To the honorable the judges of the circuit court of the United States, in and for the eastern district of Pennsylvania, in the third circuit.

I respectfully report, that, in pursuance of the order of the court,

made on the 6th day of August, 1849, by which it was referred to me to report the facts necessary for a final decree, upon the principles decided by the court, and declared in their opinion delivered on that day, I gave due personal notice to the several gentlemen who appeared from the docket to represent parties claiming to be interested in the fund, to attend at my office on Monday, the 8th day of October following, at 4 o'clock, p. m.

On which day, and at many subsequent meetings, I was attended by the following named gentlemen, (or by some of them,) as counsel for parties claiming to be interested in the fund, as kindred of the testator, viz:

B. Newcomb, esq.,
B. Tilghman, esq.,
William Rawle, esq.,
Josiah Randall, esq.,
Henry J. Williams, esq.,
John M. Read, esq.,
Thomas A. Budd, esq.,
Eli K. Price, esq.,
Henry D. Gilpin, esq.,
Joseph G. Clarkson, esq.,
John L. Newbold, esq.,
William B. Reed, esq.,
Peter M'Call, esq.,
D. McLaughlin, esq.,
Christopher Fallon, esq.,
William B. Hieskell, esq.,
William M. Tilghman, esq.,
J. H. Markland, esq.,
P. P. Morris, esq.,
M. Russell Thayer, esq.,
George Griscom, esq.,
George W. Harris, esq.,
A. J. Fish, esq.,
R. Alsop, esq.,
Thomas Balch, esq.

And by James Bayard, esq., for the administrator de bonis non, and by some of the parties in their proper persons.

At one of the first meetings in the case, evidence was offered on the part of the persons claiming to be of kindred of the whole blood to the testator, in support of their claims, and in opposition to the claims of the half blood; and the counsel for the whole blood claimed to be heard in support of the case of their clients.

I was inclined to admit the evidence so offered, leaving it to the court afterwards to decide upon its relevancy and weight; but I recommended that an application should be forthwith made to the court for further and express directions to me on the subject.

An application was accordingly made, and after hearing counsel, the

court gave a written opinion on the 29th of October, 1849, containing explicit and full directions to me, in respect to my duties under the present reference.

A copy of the opinion is annexed to this report, marked (A.)

In conformity with the directions so given, I rejected all the evidence offered on the part of the whole blood, and declined hearing the counsel, excepting upon the question of the real estate, and the state or amount of the assets in the hands of the administrator de bonis non with the will annexed.

I proceed now to state what I conceive to be the points and principles decided by this court, and upon which the reference was made to me in August, 1849, and what were the more special directions afterwards given.

By the decision of the court, pronounced on the 6th August, 1849, I submit that it is settled—

1. Upon the construction of the will of Matthias Aspden, that the persons to take were those "on whom the law of Pennsylvania would cast the inheritance of his land as his lawful heirs, if he had died intestate."

2. That Matthias Aspden left at his death neither wife nor lineal descendant, nor father, nor mother, nor brother or sister of the whole blood, nor brother or sister of the half blood.

3. That he left issue of brothers and sisters of the half blood, viz:

(1) The issue of his half sister, Mary Aspden, daughter of his father, viz., descendants of Captain H. Harrison.

(2) Issue of half brothers and sisters, children of his mother, viz., by her first marriage with Roger Hartley.

4. That the more remote kindred of the whole blood, whether on the part of the father or mother, are to be excluded.

5. Whether any distinction could be made between the half blood ex parte paterna and materna, was left open.

6. The bills filed by the next of kin, being descendants of the maternal grand uncles and aunts, were dismissed, as also those filed by those claiming under the heir at common law.

By the opinion of the court, delivered on the 29th day of October, 1849, the following special instructions were given to the master, which for greater clearness and method I have divided and distinguished by numerals:

(I.) The master was directed to take an account of the assets in the hands of the administrator, for the purpose of distribution.

(II.) To report who were the descendants of Mary Aspden, living at the testator's death, and by whom they are represented in court.

III. To report what children of the nephews and nieces of the half blood ex parte materna were living at that time, and by whom they are represented in court.

IV. And if any of the children of those nephews and nieces were deceased at the time of testator's death, who are their descendants, and how represented on the record.

V. Whether there are any persons entitled to a share at the death of testator who have not been made parties.

VI. What amount should be decreed to each of these parties, on the supposition that the division is to be between both stocks of half blood relations.

VII. What amount should be decreed to each of the paternal half blood, if the maternal be excluded.

VIII. "What lands were held or claimed by the testator at the time he made his will or afterwards; and how held, whether by purchase or descent or devise, from either father or mother."

IX. In respect to this last question, "the master will use every means in his power to ascertain the facts without being confined to the record."

X. If new claimants are allowed to come in, or if it appear that there are persons entitled who have not been before the court, "the master will take such testimony as will enable him to make a full report of all facts necessary to a final decree."

I proceed now to report upon the several points above stated.

I. I have been furnished by the administrator de bonis non, &c., with three successive statements of the amount of the assets, viz:

1. A statement of the amount of the assets on the 12th of October, 1849, which statement will be found in the book of documents printed by order of the court, in May, 1850, at page 71; which printed book is annexed to this report.

2. A statement of investments for the estate of Matthias Aspden, between the 12th of October, 1849, and the 16th of May, 1850.

Which statement will be found in the same printed book at page 72.

3d. A statement of the "estate of Matthias Aspden," on the 12th of August, 1850.

Which last statement is annexed to this report, (marked B.)

II, III, IV, VI, VII. These inquiries relate to the kindred of the half-blood claiming to be entitled to distributive shares, whether descended from the paternal or maternal stock.

Upon these subjects evidence had been taken by me upon former references, which will be found appended to the reports and printed in the several paper books which have heretofore been prepared by order of the court; and particular reference to which will be found in one of the schedules hereinafter to be mentioned. On the present reference a great deal of additional testimony has been taken upon these points. Depositions of witnesses have been taken by me, and under commissions to different places; which depositions are annexed to this report, and will be found in the printed book accompanying this report.

In reference to the question of representation of persons claiming to be of the kindred of the half blood, but who have died since the testator's death, a question arose, whether letters testamentary, or of administration, granted out of this State, were sufficient to authorize the executor or administrator so appointed to intervene; I was of opinion:

1. That the circuit court of the United States is, in these respects,

governed by the same rules as the State courts, or considers it convenient to adopt the State legislation in respect to the law of representation both of personal and real property.

2. That, by the act of Pennsylvania of 1832, letters testamentary, or of administration, granted out of the State, upon the estates of persons dying after the passage of that act, do not authorize the executor or administrator so constituted to represent the deceased in this court.

3. That the act of 1832 was not retrospective; and, therefore, that, in the case of a claimant dying between the 9th of August, 1824, and the passage of the act of 1832, administration granted in another State was sufficient.

In all cases, however, I believe administration has since been taken out in this State.

Another question was suggested, though not pressed, viz., whether the children of nephews and nieces of the testator, who died before the testator, were entitled to succeed by representation to the interest of their deceased parent.

About this, it appeared to me, there could not be any doubt. At the period of the death of Mr. Aspden, the succession to real and personal estate was governed by the acts of 1794 and 1797. In the act of 1705, and in subsequent acts relating to the descent and distribution of the estates of intestates, was contained a clause copied from the English statute of distribution, which declared that there should be no representation among collaterals after brothers' and sisters' children. The act of 1794, however, omitted this provision, which was restored by the act of 1833; but as Mr. Aspden died in 1824, and the act of 1833 had no retrospective operation, this restriction upon the right of representation does not operate in respect to his estate.

These were the only questions of law that arose in respect to the rights of the persons claiming as kindred of the half blood.

The evidence produced was clear and satisfactory in respect to all questions of fact arising from the pedigrees of the several claimants. There are only two cases in which sufficient evidence has not been furnished respecting the names and existence of persons supposed to be interested. These will be mentioned presently.

To comply most completely with the directions of the court under these heads, and at the same time to furnish convenient references to the evidence in support of the respective claims of the parties, I have prepared three schedules, viz:

1st. A schedule containing an account of the families and the names of the descendants of the several brothers and sisters of the testator of the half blood, whether on the father's or mother's side, with references in the margin to the evidence by which it is sustained.

(Which is annexed to this report, marked C.)

2d. A schedule containing a table of the names of the kindred of the half blood, entitled to distribution, according to their relative degrees of relationship to the testator.

(Which is also annexed, marked D.)

3d. A schedule containing—

1. A table of the names of the kindred of the half blood ex parte paterna, with a statement of the shares to which they would be respectively entitled, supposing the maternal half blood to be excluded.

2d. A table of the names of the kindred of the half blood, both paternal and maternal, with their respective shares, "on the supposition that the division is to be between both stocks of half blood relations;" and with the names of their respective solicitors or counsel, so far as I have been able to ascertain the same.

(Which schedule is also annexed, marked E.)

In respect to the proportions of the estate or fund set forth in the 2d table of the last mentioned schedule, it is proper to state that they are founded upon the following calculation or conclusion, derived from the evidence, viz:

Mary Aspden left three children - -	3
Roger Hartley - - - - -	10
Barsheba Hartley (Zane) - - -	5
Ann Hartley (Hinchman) - - -	4
Benjamin Hartley - - - -	7
Rebecca Hartley (Kay) - - -	6
Original shares - -	35

In two cases, as I have said, sufficient evidence has not been produced in respect to the present representatives of the parties, viz:

1. Peter Hartley, one of the nephews of the testator on the maternal side, who is stated by the witnesses to have died in Washington county, in Pennsylvania, leaving issue, according to one witness, whose names and places of residence, however, are unknown, and who have not been made parties to this suit.

2d. Edward Peggs, son of Martha Peggs, one of the nieces of the testator, on the same side, who died before the testator, is stated by a witness to have died since his mother, leaving a widow and two children; their names have not been given, however, and they have not been made parties.

In respect to these shares the court will probably order them to be set apart, and will direct further inquiries to be made in respect to their present representatives.

The three several schedules above mentioned will, I submit, be found to contain, in the most convenient form, all the information required by the order of the court, respecting the kindred of the testator of the half blood, their shares of the fund, and their representatives in court.

V. Upon the point, viz., "whether there are any persons entitled to a share at the death of the testator who had not been made parties?" I report, that, in addition to the cases of Peter Hartley and Edward Peggs, above mentioned, the following named persons, in respect to whose existence and relationship to the testator satisfactory evidence

has been produced, have not been made parties, and are not represented by counsel, viz:

James or Hugh Rannels and Rebecca his wife; —— Tolbert and Mary his wife; John Shannon and Ann his wife; Ruth Middleton, (widow.) These persons are of the maternal branch.

(VIII.) The next point of inquiry is, "what lands were held or claimed by the testator at the time he made his will, or afterwards; and how held, whether by purchase or descent, or devise from either father or mother?"

This question was the subject of considerable discussion at numerous meetings, and a great deal of documentary evidence in respect to it was offered and admitted.

1. Of real estate, which came to the testator on the part of his father.

Upon this branch of the question it would probably be sufficient for me to refer to the decision of this court, pronounced upon the 6th of August, 1849, in which the following opinion, in respect to this point, is expressed:

"The testator inherited from his father real property in Pennsylvania, which he never sold; and, although it had been forfeited by the State of Pennsylvania, he always denied the legality and justice of that forfeiture. He continued pertinaciously to claim it till the day of his death, and entertained the hope that his heirs, if not himself, would some day regain it; whether these hopes were well or ill-founded, and whether his property was legally or illegally wrested from him, we need not inquire. In seeking for his intention and meaning, it is enough for our purpose that he claimed to be the owner of landed estates in Pennsylvania, and, though out of possession, always entertained the hope that he or his heirs would one day enjoy them."

It may be convenient and proper, however, that I should state the evidence that has been laid before me upon this subject, and the conclusions to which I have come upon that evidence.

By his will, dated the 10th day of August, 1764, and proved on the 26th day of August, 1765, Matthias Aspden, the father of the testator, devised to him, in fee, all his messuages and land in Haddonfield, in the then province of New Jersey, (subject, as to a portion thereof, to a devise thereof to his wife Rebecca, during her life;) also all his, the testator's, messuage and lot of *gravel* on the east side of Delaware street, (now Water street,) in the city of Philadelphia, together with the stores and wharf thereunto belonging; also his (the testator's) plantation and tract of land in the county of Chester, in the then province of Pennsylvania; which messuages and lands were charged with the payment of fifty pounds a year, to his said wife Rebecca, during her life; and, after giving certain legacies, he devised and bequeathed to his said son, Matthias Aspden, all the rest and residue of his said goods and chattels, lands and tenements.

By deed, dated the 21st day of February, 1775, Matthias Aspden, the son, in consideration of the sum of £700, conveyed to Thomas Redman, in fee, certain messuages, lots, and lands, situate in the town

of Haddonfield, in the province of New Jersey, by particular descriptions, reciting that they were the same premises which his father, Matthias Aspden, sen'r, by his will (dated as above) devised to him, in fee.

In the year 1781, the attainder of Matthias Aspden (the testator in this case) appears to have been consummate, and all his real estate in the State of Pennsylvania appears to have become forfeited to the commonwealth.

In March, 1782, the messuage and lot in Water street, devised to him by his father, was, by the supreme executive council of the State, assigned and granted, as "late the estate of Matthias Aspden, an attainted traitor," to the University of Pennsylvania, at a valuation of £1,400; and by an act of the legislature of this State, passed on the 22d of September, 1785, the same, with other estates, was confirmed to the trustees of the university.

On the 3d of November, 1791, the trustees of the University conveyed the said messuage and lot to Joseph Mercier, of the city of Philadelphia, merchant; and, on the 10th of December, 1823, Louisa Mercier and others, heirs of Joseph Mercier, conveyed the same to Stephen Girard, of the same city, merchant, who, by his will, dated the 16th day of February, 1830, devised the same (inter alia) to the mayor, aldermen, and citizens of Philadelphia, by whom the same is now held.

The plantation or tract of land in Chester county was exposed to public sale by order of the supreme executive council, and purchased by Edward Bartholomew, on the 29th of April, 1786, for the price or sum of £1,090; and, on the 26th of August, 1786, a patent, in the name of the commonwealth, was granted to him for the same. On the 28th of February, 1796, Edward Bartholomew conveyed the same plantation and tract of land to Robert Mendenhall, in fee.

On the 27th of April, 1800, Robert Mendenhall and wife conveyed the greater part of this land to George Hunter, in fee.

On the 1st of April, 1837, George M. Hunter, and others, heirs of George Hunter, deceased, conveyed the last mentioned tract to William Hunter, in fee.

The remaining 70 acres of the original tract were conveyed by the heirs of Robert Mendenhall to William Frazer Green.

Evidence was given, by witnesses produced on the part of the maternal kindred, to show that the rents of the house and stores in Water street had been received by the trustees of the University of Pennsylvania, during the time of their ownership of the same, without interruption or obstruction; and in respect to the plantation in Chester county, that no actual claim for the same was ever made by the testator, Matthias Aspden, to their knowledge, and that the successive owners thereof, since the sale by order of the supreme executive council, have been in undisturbed possession.

It is clear, from the evidence, that the testator, Matthias Aspden was not in possession of any part of the real estate devised to him by his father, after the time of the seizure of the Water street lot, and Chester county land, by the commissioners of forfeited estates; it is also

clear, that he did not legally hold any part of the real estate so devised to him; the land in New Jersey having been sold and conveyed by him before the revolution, and the land in Pennsylvania having been forfeited by his attainder.

But it is equally clear from all the evidence in this case, that he considered himself as the rightful owner of the land so forfeited; that he denied the legality as well as the moral justice of the attainder; and that he asserted and kept up a continual claim to the house and lot in Water street, and to the land in Chester county, from the time of the forfeiture to near the period of his death.

This continual claim was not made, it is true, in the technical sense of the term, upon the land or its neighborhood, but appears from his letters, from his different wills prior to the last, from the various and successive powers of attorney which he executed, authorizing the different agents to bring ejectments for the property, and by other documents; all of which are to be found in the printed paper books in this case, and one of which is as recent as the year 1818. (Paper book, entitled "Letters and other Documents," &c., p. 283–'4.)

It is true that he applied to the British government for compensation in money for his losses by reason of the attainder, and received some pecuniary allowances, which he considered very inadequate; but notwithstanding this, he appears to have persisted to a late period of his life in the belief that his real estate in Pennsylvania had been illegally as well as unjustly taken from him.

Upon this point, therefore, I report, that Matthias Aspden, the testator, did not, at the date of his last will, or afterwards, hold any real estate that came to him on the part of his father; but that, at the date of the said will, and afterwards, until near the period of his death, he claimed to be the rightful owner of the house or store, lot of ground and wharf, on the east side of Water street, in the city of Philadelphia, and of the plantation or tract of land in the county of Chester, and State of Pennsylvania, that had been devised to him in fee by his father, by his will dated the 10th of August, 1764.

2d. Of the real estate which may have come to the testator on the part of his mother.

There is no evidence that the testator derived any real estate whatever from his mother, by descent or devise.

The allegation on the part of the maternal kindred is, that he acquired title to certain real estate in Pennsylvania by conveyance from his mother.

The evidence laid before me established the following facts:

On the 10th day of May, 1768, Rebecca Aspden, of the city of Philadelphia, widow, and Daniel Packer, of Gloucester county, in New Jersey, by indenture of that date, reciting that the said Rebecca and Daniel were the only surviving children of Rebecca Packer, who was the only surviving daughter and issue of Daniel Jones, one of the first adventurers and purchasers in the province of Pennsylvania; and reciting, also, that the said Daniel Jones, by virtue of some purchase or

purchases, made of the first proprietary, William Penn, esq., and other persons, was in his lifetime seized and possessed of, or entitled to, several city and liberty lots, and other tenements and tracts of land in the said province, and rights to such lots and lands; and being so seized or possessed of, or entitled to, died intestate, and his estate in the premises descended to the aforesaid Rebecca Aspden and Daniel Packer; in consideration of the natural love and affection which they respectively bore unto Matthias Aspden and James Hartley, of the city of Philadelphia, merchants, the sons of Rebecca Aspden and nephews of Daniel Packer, did give, grant, &c., to the said Matthias and Daniel, all the parts, purparts, and shares of them, the said Rebecca and Daniel, of, in, and to all the messuages, lots, and lands, and rights to lands, &c., located and unlocated, in the said province of Pennsylvania, which were of the said Daniel Jones, and not by him disposed of in his lifetime, descended to his daughter Rebecca Packer, and by her not disposed of, descended to the said Rebecca Aspden and Daniel Packer; habendum to the said Matthias Aspden and James Hartley, their heirs and assigns, with a covenant for further assurance.

By indenture dated the 30th day of May, 1768, between Jeremiah Carter and several others, all claiming to be descended from Rebecca Budden, (who was recited to be a daughter of Daniel Jones, late of the city of Philadelphia, cordwainer, deceased,) of the one part, and Matthias Aspden, of the city of Philadelphia, merchant, of the other part, the said parties of the first part, in consideration of £5, and for other good and valuable considerations, did grant and convey to the said Matthias Aspden, his heirs and assigns, all the lots, lands, &c., in the city or county of Philadelphia, which they, the parties of the first part, were in any ways entitled unto, &c.; with the usual covenants of special warranty against them and their heirs.

To prove that Daniel Jones, the ancestor of these grantors, was at one time the owner of real estate situate in the city and county of Philadelphia, evidence was given to the following effect:

The name of Daniel Jones appears in two of the lists of first purchasers. In the list of first purchasers, printed in an appendix to Lowber's edition of the Ordinances of Philadelphia, (1812,) reprinted from "An account of the City of Philadelphia, newly laid, with a platform thereof, wherein the purchaser's lots are distinguished by certain numbers inserted," &c., printed in 1685, the name of Daniel Jones appears, (page 285,) with the number 155 annexed. On reference to the accompanying map or plan of the city, it appears that the number 155 is upon a lot at the southeast corner of Chestnut and Fifth streets, from the Delaware.

In the book entitled "An explanation of the Map of the City and Liberties of Philadelphia, by John Reed," printed in Philadelphia, in 1774, (a copy of which was found in the trunk of the testator,) there is a list of first purchasers, in which the name of Daniel Jones does not appear; but in a list of "Surveys of all the Lots in the City of Philadelphia, as far as Eighth street from Delaware," with the names

of the "takers up," contained in the same book, the name of Daniel Jones is found as the "taker up" of three lots on the north side of Walnut street, between 4th and 5th streets, from the Delaware, viz., for one lot of 63½ feet front, one other of 62 feet front, and one other of 37 feet front. The number of feet on the north side of Walnut street, between 4th and 5th streets, covered by these and other surveys, is 385. The length of the square, however, appears, upon official returns, to be 400 feet; leaving an overplus of 15 feet.

In further support of the alleged title under Daniel Jones, certified copies of the following documents were given in evidence:

1684, 4 mo. 24. Patent, William Penn to Daniel Jones, for a lot on the north side of Walnut street, 62 feet front by 255 feet deep.

1685, 4 mo. 22. Patent, Commissioners of William Penn to *to* Daniel Jones, for a lot on the north side of Walnut street, 37 feet front by 255 feet deep.

1692, Sept. 7. Patent, Commissioners of William Penn to Daniel Jones, for a lot on the north side of Walnut street, 63½ feet front by 250 feet deep.

1687, July 27. Deed, John Hodgkinson to Daniel Jones, for a lot on the north side of Walnut street, between 4th and 5th streets, from Delaware, containing in breadth 49½ feet, and in depth 200 feet; (which lot had been surveyed to Hodgkinson on the 1st of January, 1684.)

1692, 6 mo. 1. Deed, John Green to Daniel Jones, for a lot at the northwest corner of Walnut and Del. 4th streets, 74 feet front on Walnut street by 255 feet. (Which lot had been originally surveyed to one Thomas Livezey, and by patent dated the 24th of the 8th month, 1691, confirmed to him.)

From these patents and deeds it appears that, in September, 1692, Daniel Jones was the owner of five lots on the north side of Walnut street, between Del. 4th and 5th streets, containing together in front 286 feet, and in depth from 220 to 255 feet.

It appears also from a recital in a deed from Daniel Jones to David Loyd, hereafter to be mentioned, that about the same time he became the purchaser from one Caleb Pusey of a lot at the N. E. corner of Walnut and Del. 5th streets, containing in front on Walnut street 49½ feet, and on 5th street 220 feet; thus making him the owner of 335 feet and a half in front on Walnut street, and leaving 49½ feet in front, (according to the surveys of the time,) to which title is not traced to Daniel Jones. It appears from the list of surveys in Reed's book, heretofore mentioned, that these remaining 49½ feet were surveyed to Robert Hart on the 12th of the 5th month, 1683, and that in point of locality they were next adjoining on the west to the lot surveyed to Pusey, at the corner of 5th and Walnut street, and on the east to the lot of 37 feet front on Walnut street, surveyed to Daniel Jones on the 20th of the 8th month, 1684, and patented to him, as above stated, on the 22d of the 4th month, 1685.

The counsel for the maternal kindred also give in evidence a patent

to Daniel Jones, dated the 19th of the 11th month, 1685, for 100 acres of land on Poquessing creek, in the county of Philadelphia.

It was alleged, however, on the part of the paternal kindred, that all these lots were disposed of by Daniel Jones in his lifetime or by his legal representatives shortly after his death; and in support of this allegation the following deeds were given in evidence:

1696, June 23d. Deed, Daniel Jones to David Loyd, for the lot at the N. E. corner of Walnut and 5th streets, 49½ feet by 220 feet; being the same which he had bought of Pusey.

1697, April 6. Deed, Daniel Jones to Charles Sober, for a lot on the west side of 4th street, containing in front 76 feet, and in depth, westward, 150 feet: Bounded eastward by the said 4th street, southward and westward with the remainder of the said Daniel Jones's three lots, viz., 1st, the lot conveyed to him by Green; 2d, the lot conveyed to him by Hodgkinson; and, 3d, a lot patented to Jones himself, (which, although there appears to be an erroneous reference to the place of record, must be the lot of 63½ feet front by 250 deep, patented to Jones on the 7th September, 1692, as above stated.)

1697, April 27. Deed, Daniel Jones to Charles Sober, for "the remaining part of two lots, situate on the west side of 4th street, . . . adjoining to the other part of the same lots lately conveyed to the said Charles Sober by the said Daniel Jones, which said piece of lots hereby granted is in breadth 137½ feet, and the whole is in length 250 feet, whereof 76 feet from off the length, and 118 (137½) from off the breadth, is already granted as aforesaid;' reciting that one of the said two lots was conveyed to Jones by Green, and the other patented to Jones himself; bounded to the westward with the other lot of the said Daniel Jones.

Daniel Jones died about the year 1698, being the owner, at the time of his death, according to the evidence, of three lots, containing together about 148 feet (in front) on Walnut street by 255 and 220 feet in depth.

By indenture dated the 24th of the 3d month, 1699, John Haywood, administrator of the estate of Daniel Jones, deceased, and Hugh Jones, describing himself as "son and heir of the said Daniel Jones, deceased," reciting:

1st. That there was a certain lot, containing in breadth 62 feet and in depth 255 feet, bounded southward by Walnut street, granted by the proprietaries by patent, recorded the 30th of the 5th month, 1684.

2d. Another lot granted to the said Daniel Jones, by patent, recorded in book A, folio 148, containing in breadth, on Walnut street, 37 feet and in depth 255 feet.

3d. Another lot, laid out by the surveyor general's order the 28th of the third month, 1691, to the said Daniel Jones, containing in breadth 49½ feet, and in length 250 feet, bounded southward by Walnut street, and "westward with John Hodgkins's lot."

4th. A lot bought by Daniel Jones of John Hodgkins, by deed

dated 7th of July, 1686, containing in breath 49½ feet, and in length 220 feet.

And reciting, also, that there was a certain messuage, or tenement, together with part and parcel of the said lots, containing in breadth, on Walnut street, 165 feet, and in length adjoining Charles Sober's ground, had of the said Daniel Jones, 177 feet, thence by several courses and distances to Walnut street, surveyed by David Powell the 26th of the 3d month, 1699; reciting, also, an order of the orphan's court for the sale of the houses and lot aforesaid, for the payment of debts, &c.

And then, in consideration of £90, the said John Haywood, administrator, and Hugh Jones, convey the said messuage and last described lot of ground to William Alberson in fee.

The administrator of Daniel Jones thus, it has been seen, undertook to convey 165 feet, whereas Daniel Jones was at the time of his death entitled to only 148 feet and a half, or thereabouts.

The difference is probably to be accounted for by the fact of the surplus of 15 feet over the number in the patents, which surplus was probably in the actual possession of Daniel Jones.

There is an obvious mistake in the third recital in this deed, viz., of a survey to Daniel Jones of a lot of 49½ feet front, since no such survey is elsewhere alleged, and no patent for it to be found, and since from the boundaries of this supposed lot it is plain that it must have been confounded with the patent of Sept. 7th, 1692, for the 63½ feet lot.

At all events it is clear that Daniel Jones, in his lifetime, and his administrator and son after his death, conveyed away by valid assurances all the right, title, and interest of the said Daniel Jones to the lots of ground in Walnut street, and Fourth and Fifth streets, from the Delaware.

In respect to the lot at the corner of Chesnut and Fifth streets, the number of which, (155,) on the plan of the city of Philadelphia of 1683, is found opposite to the name of Daniel Jones in the list of purchasers in the appendix to the ordinances, it is sufficient to remark that there is no evidence of any warrant or survey to him for that lot; that the presumption is, that his right as a first purchaser was located in Walnut street instead of Chesnut street; and that, at all events, the act of 1781 extinguished all such unlocated rights, where possession had not been taken, long before the date of the last will of Matthias Aspden.

As to the 100 acres of land on the Poquessing creek, the counsel for the paternal kindred gave in evidence a deed dated the 2d of the twelfth month, 1685–'6, from Daniel Jones to Thomas Prichard, for 48 acres of this tract; which deed contains a recital that he had previously conveyed the remaining 52 acres.

I report, therefore, that the said testator, Matthias Aspden, did not, at the time he made his will or afterwards, hold any lots or lands by purchase, descent, or devise from his mother.

The remaining question is, did he at the time he made his will, or afterwards, claim any such land?

I have carefully examined the numerous letters and other documents written by Matthias Aspden, from the time of his arrival in England in 1776, to near the period of his death, and contained in the several paper books printed by order of the court, and have not been able to find any affirmative evidence that he considered himself to possess any right or title whatever to any property which came to him on the part of his mother, or any allusion whatever to it. The negative evidence, however, is exceedingly strong. It is very clear, from all the documents in the case, that the testator was very earnest and persevering in asserting his rights to property, and not at all disposed to abandon or part with any thing to which he supposed he had a claim. A very large part of his correspondence and memorials consists of complaints of the hardship and injustice of depriving him of his patrimonial estate, and of his losses of personal property, or of the chance of acquiring money, in consequence of the revolution; but I have not found any reference whatever to the supposed right to the lots or land once belonging to Daniel Jones. In several wills made before the last, he enumerates particularly the real estate derived from his father, but is silent as to any other, unless it may be supposed to be comprehended in the residuary clause.

But stronger negative evidence is to be found in some of these documents. Thus, in the will of the 24th of March, 1776, after devising specifically the house in Water street and the plantation in Chester county to his three nephews on the paternal side, and after giving several pecuniary legacies, he added, "and if there shall remain any thing after payment of my just debts and funeral expenses, and the legacies I have hereinbefore given, then it is my will that the remainder and residue of my estate shall go to, and I do give and bequeath the same unto, my said three nephews, Joseph Harrison, Matthias Harrison, and George Harrison, to be equally divided between them, part and share alike." (Book of Letters, &c., p. 12, 13.) In a letter to him from James Hartley, (his co-grantee in the deed of 1768,) dated Philadelphia, Novembe· 20th, 1782, after speaking of the house in Water street, and the plantation in Chester county, he added, "this completes all your estate here." (Letter Book, p. 35.) In a paper headed "Account of himself," signed "Matthias Aspden," and dated "Clifton, near Bristol, July 18th, 1798," he says, "the remainder of estate being sold, a pardon was granted him by the executive council in 1786:" and afterwards "his estate being seized and sold." (Letter Book, p. 198, 199.) In another paper written in September, 1798, he speaks of the attainder "under which his life and estate was supposed to be forfeited, and the latter actually seized as (and) for his real estate." (Letter Book, p 204.) Again, in a letter to the President of the Bank of the United States, dated "London, July 26th, 1804," he says, "I have a notion I have a right to a house in Coomb's alley, if not to other interests in or near Philadelphia, as residuary le-

gatee to my father's estate, or his heir, if the will was a nullity." (Letter Book, p. 242.) But there is no intimation in this or any other letter of his having any right or claim to real estate derived from his mother.

It was argued that the possession of the deed of 1768, and of certain other documents which appear to relate to the lots formerly held by Daniel Jones, (which are printed in the accompanying paper book,) is some evidence of an opinion on the part of the testator that the claim was well founded. The documents, it appears, were found in his trunk, with old clothes, old books, and other papers of, obviously, small value or regard, and were not, like his will, delivered into the custody or charge of the president of the bank. They are all ancient papers, and bear no evidence of having been used or resorted to since his first possession of them.

I do not see, in the mere fact of their being found in his trunk, any proof of his having attached the slightest value to them, or of his belief that he had any claim to the lots or land to which they relate.

It is proper to add that,—

1st. The deed of 1768 was made before he arrived at full age. According to the first report of the master in this case, the testator was born in or about the year 1756. There is some uncertainty about this however. In his letters he says, more than once, that he was in successful business before he arrived at the age of twenty-one; and that his deed to Redman, for the Haddonfield property, in 1775, was executed when he was only nineteen. It is, at all events, certain that he was not twenty-one in 1768.

2d. According to a paper given in evidence on the part of the maternal kindred, signed Rebecca Budden, and dated Philadelphia, June 1, 1754, and which is printed in the accompanying paper book, Daniel Jones died in 1695,* and left four children. viz., Daniel Jones, Samuel Jones, Hugh Jones, and Rebecca Jones. In the deed from Rebecca Aspden and Daniel Packer to Aspden and Hartley, the said Rebecca and Daniel are cited to be "the only surviving children of Rebecca Packer, who was the only surviving daughter and issue of Daniel Jones." In the deed from Jeremiah Carter and others to M. Aspden, the grantors described themselves as the descendants of "Rebecca Budden, formerly Rebecca Carter, late of Burlington county, widow, the said Rebecca being the daughter of Daniel Jones, late of the city of Philadelphia, &c., cordwainer, deceased." There was also given in evidence, on the part of the maternal kindred, a paper signed "Daniel Jones," and dated the 29th day of June, 1768, in which the writer, describing himself as of the county of Loudon, in the State of Virginia, revokes a power which he had given to one Mead to recover a right claimed by him in the city of Philadelphia. It would seem, therefore, that, by the deed of the 10th of May, 1768, from Rebecca Aspden and Daniel Packer to Matthias Aspden and James Hartley, only an undi-

* This is certainly a mistake, since Daniel Jones executed two conveyances in 1697.

vided share or part of the shadowy and unfounded claim of the descendants of Daniel Jones passed to the grantees; and when it is remembered that only one-half of that imaginary right passed by the deed to Matthias Aspden, it is not surprising that, after arriving at full age, he should have entirely abandoned it.

I therefore, and finally, report, that the said Matthias Aspden, the testator, did not, at the time he made his will, or at any time afterwards, HOLD or CLAIM any lots or lands, by purchase, descent, or devise, from his mother.

All which is respectfully submitted.

T. I. WHARTON, *Master.*

Philadelphia, August 22, 1850.

(1.)

In the circuit court of the United States, in and for the eastern district of Pennsylvania, in the third circuit.

PACKER vs. NIXON. } Of April session, 1828, No. 1. In equity.

And now, to wit, September 24, 1849, this case is referred to Thomas I. Wharton, esq., as master, to report the facts necessary for a final decree, upon the principles decided in the opinion delivered in this case upon the 6th day of August, 1849.

The final decrees in relation to the bills filed by all those claiming as next of kin, being descendants of the maternal grand uncles and aunts of the testator, and also the bills filed by those claiming under the heir at common law, are to await the coming in of the report of the master, or the further order of the court.

Certified from the record, 24 September, 1849.

GEORGE PLITT, *Clerk C. C.*

[Seal, U. S. C. C.]

(2.)

In the circuit court of the United States, in and for the eastern district of Pennsylvania, in the third circuit.

PACKER vs. NIXON. } Of April sessions, 1828, No. 1. In equity.

And now, March 9th, 1850, on motion of W. M. Tilghman, esquire, ordered by the court, that the master, to whom this case was referred on the 24th September, 1849, do file his report on or before the first day of June next; and that all claimants, who shall not have established their claims on or before the sixteenth day of May next, be excluded from any hearing before the master.

A true copy, certified from the record, March 9, 1850.

GEORGE PLITT, *Clerk C. C.*

[Seal, U. S. C. C.]

(3.)

In the circuit court of the United States, in and for the eastern district of Pennsylvania, in the third circuit.

Of April session, 1828. No. 1.

PACKER vs. NIXON. } In equity.

And now, May 17, 1850, on motion of W. M. Tilghman, esq., ordered by the court, that the time prescribed by the order of 9th March last, for the filing of the report of the master, be extended until the first day of July next; and that the master, so soon as said report is prepared, do cause the same, together with the evidence taken by him; also, the further directions given to him by this court, on the 29th October last, the docket entries in the cause since 22d July, 1848, and such other matters as he may deem relevant, to be printed; the costs thereof to be paid out of the fund.

May 17, 1850. A true copy certified from the record.

(Seal, U. S. C. C.) GEORGE PLITT,
Clerk C. C.

(4.)

In the circuit court of the United States, in and for the eastern district of Pennsylvania, in the third circuit.

April session, 1828. No. 1.

PACKER vs. NIXON. } In equity.

And now, June 14, 1850, at the instance and suggestion, in writing, of the master, made this day, and ordered to be filed, setting forth that he finds it inconvenient to make and file his report at the time fixed by the last order of the court, consistently with a due consideration of the case, and with the rule of this court requiring two weeks notice to be given to the counsel of the preparation of the report, it is ordered, that the time for filing the report be enlarged until the first Monday in September next.

And the master having certified that he considered it material for a satisfactory decision of the inquiry respecting the real estate, that time should be given for the production of evidence respecting the same, on the part both of the paternal and maternal half blood, and having suggested the first Monday in August next as a suitable limit for the same, it is ordered, that the master be at liberty to receive any such evidence until the first Monday in August next.

June 15, 1850. A true copy, certified from the record.

(Seal, U. S. C. C.) GEORGE PLITT,
Clerk C. C.

(5.)

In the circuit court of the United States, for the eastern district of Pennsylvania, in the third circuit.

April session, 1828. No. 1.

PACKER vs. NIXON. } In equity.

AUGUST 2, 1850.

Upon the suggestion of the master in this case, made in pursuance of an agreement between the counsel present at a regular meeting held at his office on Tuesday, the 30th of July, 1850, it is ordered, that the time of filing the report of the master in this case be enlarged until the third Monday in September next. And it is further ordered by the court, that further evidence relating to the real estate may be taken until Monday, the 12th day of August, instant.

1850, August 23d. Certified from the minutes,

(Seal, U. S. C. C.) J. BURCHARD,
For Clerk Ct. Ct.

(A.)

PACKER et al. vs TROTTER. }

On motion for instructions to the master.

OCTOBER 29, 1849.

GRIER, J. When the opinion of the court was delivered in this case, no special instructions were given to the master, because we did not know whether any question would be raised between the relatives of the half blood, which our decision showed might possibly arise. But as to all other points it was considered final till reversed on appeal. It left no question open about the legitimacy of either stock of these claimants. The twenty years during which the suit has been pending may well be considered sufficient for all the numerous parties to establish their relationship to the testator. Volumes of testimony have been taken and filed; these have been referred at different times to a master to report; no exceptions have been taken to these reports, or doubts intimated as to their correctness, nor a hint of any disposition on the part of any of the claimants to question the legitimacy of Mary Aspden, the sister of testator. The (fact) of the marriage of the father to the mother of Mary is proved from the register or record of it in England. The anile gossip and tea table scandal of the last century, which has been incidentally stated in the depositions of certain witnesses, was justly considered as wholly unworthy of comment or re-

iance, and the court have now decreed in favor of the descendants of Mary Harrison for a part at least of the money in contest. The testimony on these points was closed, and will not be opened, unless some grounds are laid by a bill of review. Of course, the duty of the master under this interlocutory decree or order would be to take an account of the assets in the hands of the administrator for the purpose of distribution.

Also to report who were the descendants of Mary Aspden living at the time of the testator's death, and by whom they are represented in court.

Also, what children of the nephews and nieces of the half blood ex parte materna were alive at that time, and by whom they are represented on the record.

And if any of the children of these nephews and nieces were deceased at the time of the testator's death, who are their descendants, and how represented on the record.

And whether there are any persons entitled to a share at the death of the testator who have not been made parties.

To report, also, what amount should be decreed to each of these parties on the supposition that the division is to be between both stocks of half blood relations.

And what the decree should give to each of the paternal half blood, if the maternal be excluded.

And, lastly, what lands were held or claimed by the testator at the time he made his will or afterwards, and how held, whether by purchase, or by descent, or devise, from either father or mother.

As the last question has been raised by the decision of the court, the master will use every means in his power to ascertain the fact, without being confined to the record. And if new claimants are allowed to come in, or if it appears (that) there are persons entitled who have not been before the court, the master will take such testimony as will enable him to make a full report of all facts necessary to a final decree. But the legitimacy of either the Hartleys or Harrisons is not an open question.

(B.)

Estate of Matthias Aspden, Aug. 12th, 1850.

Assets.	Par value.	Appraised value and cost of investments.		Present value.	
State 5 p. cts.....	$425,000 00	$81.15 p. ct.	$344,903 83	$93 p. cent.	$395,250 00
" 6 "	30,000 00	98.25 "	29,485 83	100 "	30,000 00
U. States 5 p. cts., 1853..	58,000 00	101.46 "	58,848 66	101¼ "	58,725 00
" 6 " 1856..	21,000 00	Av. } 103.46		107 "	21,470 00
" 6 " 1862..	23,000 00	cost. } p. ct.	53,802 22	112 "	25,760 00
" 6 " 1867..	8,000 00			115 "	9,200 00
City 5 p. cts.....	23,100 00	98.78 p. ct.	22,820 00	88 "	20,328 00
" 6 "	18,000 00	106.00 "	19,080 00	103½ "	18,630 00
County 5 p. cts.....	10,000 00	86.91 "	8,691 25	87½ "	8,750 00
" 6 "	20,000 00	96.73 "	19,347 50	102 "	20,400 00
100 shares Girard Bank, at $50.....	5,000 00	28.25 p. sh.	2,825 00	12.50 p. sh.	1,250 00
320 shares B'k U. S. $100	32,000 00	20.00 "	6,400 00	2.00 "	640 00
Judgment, Nixon	478 08	–	478 08	–	478 08
Union Canal, 14 $\frac{1}{2}\frac{3}{6}\frac{3}{0}$ old old shares of $200 each, received for $20,000, loan and interest	2,233 40	50 p. cent.	1,116 70	11¼ " New stock 565 shares.	630 00
Bonds and mortgages....	31,500 00	–	31,500 00	–	31,500 00
Cash.....	4,469 32	–	4,469 92	–	4,469 32
Reading Railroad, 616 shares, $50.....	30,800 00	24.50 p. sh.	15,092 00	24.50 p. sh.	15,092 00
	$742,580 80		$618,860 41		$652,572 40
				Amount received from estate at valuation....	397,606 41
				Increase.....	$264,965 49

(C.)

I. A schedule containing an account of the families, and the names of the descendants of the several brothers of the testator, of the half blood, whether on the father's or mother's side; with references in the margin to the evidence by which it is sustained.

1. Of the kindred of the half blood, ex parte paterna.

(Bishop White, p. 2.) Mary Aspden married Capt. Henry Harrison.
— (died long before the testator.)
— had the following children:
1. Henry, (died in infancy.)
2. Joseph, died before 1824, without issue.
3. Matthias, (post) (1.)
4. George, (post) (2.)
5. Mary, (post) (3.)
6. Ann, married Gov. Paca, of Maryland, and died before 1824, without issue.

(Bishop White.) (1) Matthias Harrison.
— died before 1824, leaving 2 children.

1. Henry Harrison.
(R. R. Bringhurst, N. B., p. 8.) — died before 1824, leaving issue:
1. Dorothy Francis, died May 9, 1823, aged 2 years 7 months.
2. Mary Francis, died Jan. 5, 1841.

(N. B., p. 70.) 1849, March 23. Letters of admin'n on estate of "Mary Harrison," granted to *John Brown Francis, esq.

(Bishop White.) *2. Rebecca Harrison.
— married *James McMurtrie.
— both living in 1850.

(Bishop White.) (2) George Harrison.
— living at death of testator.
— died in 1845.

(Pet. of ex'ors to be admitted party.) 1845, July 14. Letters testamentary estate of George Harrison, granted by register of Philad'a to *Mrs. Sophia Harrison.

(Bishop White.) (3) Mary Harrison.
— married Rev. William White.
— died before 1824, leaving—
*1. Thomas H. White.
— living in 1850.
2. Elizabeth, m. Wm. MacPherson.
— he died before 1824.
— she died in 1831.

(N. B., p. 69.) 1831, Nov. 10. Letters testamentary of will of Elizabeth MacPherson, dec'd, granted by register of Philadelphia to *Thos. H. White and Chas. Chauncey, esq., now deceased.

(Bishop White.) 3. Mary, married Enos Bronson.
— he died before 1824.
— she died in 1826.

(N. B., p. 69.) 1826, Nov. 23. Letters of administration on the estate of Mary Bronson, deceased, granted to *George Rundle.

2d. Of the half blood, ex parte materna.

Rebecca Hartley had six children by her first husband, Roger Hartley, viz:

1st report, p. 4, says she left five children, but Rhoda Barton, (Ev., p. 8,) John Gill, (p. 18,) and others, say six, and name them.

1st. Roger.
2d. Barsheba.
3d. Ann.
4th. Benjamin.
5th. James.
6th. Rebecca.

I. ROGER.

John Zane, p. 18.
M. Adam, N. 13, p. 26.
E. Hartley, p. 21.
— went to Bucks county, Penn., and died between the years 1802 and 1814.
— he was twice married, and had the following children:

E. Hartley, p. 20.
M. Adams, p. 26.
R. Hartley, p. 57.
P. Hartley, p. 59.

1. Jane or Jannet, (a.)
2. Benjamin, (b.)
3. James, (c.)
4. John, (d.)
5. Roger, (e.)
6. Thomas, (f.)
7. Peter, (g.)
8. Rebecca, (h.)
9. Edward, (i.)
10. Martha, (k.)
11. Barsheba, (l.)
12. Henry, (m.)

(Note.)—In the list of births (letter book, pp. 303–'4, in the handwriting of Matthias Aspden, it is stated that there were 14 in all; of whom three, viz., Ellen, Matthias, and Henry, died in the lifetime of Mr. Aspden, without issue, leaving 11, to whom all the witnesses testify.

L. B. 303.
Edw. Hartley, p. 21.
Do. p. 35.
Martin Adams, p. 39.
Roger Hartley, p. 53.

(*a*) Jannet Hartley, born 3d May, 1756. Died before 1825, without issue.

L. B. 303.
E. H. p. 21 p. 37.
M. A. p. 26.
Do. p. 39.
R. H. p. 53.

(*b*) Benjamin, born 7th February, 1758.
Died about the year 1830.
Died about 13 years ago, viz., 1837.
Died about 1830.
Died since M. A.

D. H. p. 58. Died about 1829.
P. H. p. 59. Died Sept. 22, 1829.

New Book, 66. 1829, Oct. 22d. Letters testamentary on the will of Benjamin Hartley, granted by register of Washington county to *Peter Hartley.

L. B. 303. (*c*) James, born 26th July, 1760.
E. H. p. 21, 37. Died in Greene county, "between twenty and thirty years ago."
M. A. p. 39. Died in Greene county, "near thirty years ago."
E. W. p. 46. Dead, must be twenty or thirty years ago.
R. H. p. 53. Died about twenty years ago, "since death of M. A."
D. H. p. 58. Died in 1827—was at burial.
P. H. p. 59, 60. Died in 1827.

N. B. p. 67. 1827, September 10. Letters of administration, Greene county, to Benjamin H. Black and Otho W. Miner.

p. 66. 1848, Oct. 2. Letters of administration de bonis non do. to *Matthias Hartley.

L. B. 304. (*d*) John, born Oct. 26, 1762.
E. H. p. 21, 37. died in Ohio about 1838 or 1839.
M. A. p. 26. — died in Ohio, from ten to twelve years ago, (1850.)
Id. p. 39. — died in Ohio, about 1838 or 1839.
— died do. "since death of M. A."

N. B. p. 68. 1850, Feb. 4. Letters of administration by register of Allegany county to *Charles Shaler, esq.

L. B. 304. (*e*) *Roger, born May 7, 1765.
E. H. p. 21, 37. living April, 1854.
M. A. p. 26, 39. do.
E. W. p. 46. do.
R. H. p. 54. do.
D. H. p. 57. do.

L. B. 304. (*f*) Thomas, born August 7, 1767.
E. H. p. 21, 37. — died in Washington county "about 1810, leaving a family of children."
M. A. p. 26. — died some length of time "before Benjamin."
Id. p. 39. — died "near Brownsville some forty years since."

R. H. p. 54. — "dead more than thirty years ago, before M. A.; left several children; can't remember names."

D. D. p. 58. } — died in 1811, leaving six children, viz:
P. H. p. 60. }

(1) *Jesse, living in Washington co., Pa.
(2) *David, do.
Ohio, (3) *Rebecca m. James Rannels, (P. H. says Hugh Rannels.)
do. (4) *Mary m. Tolbert.
do. (5) *Nancy m. James Sloanaker.
do. (6) *Susanna m. Daniel Luce.

L. B. 304. (*g*) Peter, born Jan. 11, 1771.
E. H. p. 21, 37-'8. — died, Washington county, Pa., about 1800; understood two children.
M. A. p. 39. do. do. about fifty years since.
R. H. p. 24. — dead more than fifty years; can't say about children.

L. B. 304. (*h*) *Rebecca, born August 13, 1773,
E. H. p. 21, 38. marrried Mahlon Doan; went to Canada; "don't know if living."
M. A. p. 39. do. do. "lived in Canada."
R. H. p. 54, 56. do. "from last accounts was alive in Canada.
D. H. p. 58. do. do. do.
P. H. p. 59. lives in Canada.

L. B. 304. (*i*) *Edward, born July 21, 1781.
E. H. p. 20, 38. living in Columbiana county, Ohio.
M. A. p. 26, 27, 39. do. do.
E. W. p. 46. do. do.
R. H. p. 54. "believed to be living; not seen him for twenty-five or thirty years."

L. B. 304. (*k*) Martha, born Jan. 23, 1783.
E. H. p. 20, 24, 38. — m. Peter Peggs; died in Fayette county on the 27th of March, 1823, leaving
M A. p. 28, 29, 30, 40. nine children.

*1. Susanna m. Peter Wilson.
*2. Dorothy m. Uriah Woods.
*3. Martha m. Wm. Jacobs.
*4. Peter Peggs.
*5. Daniel Peggs.
*6. James Peggs.
E. W. p. 47. *7. Sarah died since her mother, unmarried, &c.

E. W. p. 47. *8. Elizabeth (died in 1825, in fall) married Wm. Wilson.

N. B. p. 69. 1850, March 18. Administrator of estate of Elizabeth Wilson (late Peggs) granted to *Alfred Howell.

E. W. p. 47. 9. Edward, died since his mother.
left a wife and two children; wife believed to be still living; one of the children dead.

M. A. p. 28.
E. W. p. 47. Peter Peggs, husband of Martha Hartley, is also dead.

L. B. 304.
E. H. p. 20, 24, 38.
M. A. p. *26, 29, 31. 40*.
R. H. p. 54. (*l*) Barsheba, born July 18, 1785.
— m. Thomas Adams; died June —, 1838.
leaving several children.
*13 of them living; husband living.

N. B. p. 70. 1850, Feb. 4. Administrator of estate of Barsheba Adams, by register of Philadelphia, to *Thomas Adams.

E. H. p. 22, 38.
M. A. p. 40. (*m*) Henry, born,
— died in Virginia when two or three years old, more than fifty years ago, (1850.)

II. 2d. BARSHEBA.

p. 20. dep. of J. Gill. — married 20th Aug., (8 mo.) 1761, to Elnathan Zane.

John Gill, p. 19. — had 5 children, viz.

R. Barton, p. 9.
"2 daughters and some sons."
Rachel Hammett, p. 17.*
1. Sarah,
2. Ann,
3. John,
4. Samuel,
5. Isaac.

J. Gill, p. 19. — all 5 living in 1829.

Id. — Barsheba, the mother, "died 10 or 12 years ago," viz., 1817 to 1819.

1. Sarah.

John Gill, p. 19. — married Samuel Champion, of Haddonfield.

A. Lippincott, p. 14. — both living in 1829.

(No positive evidence of this, but the administration upon her estate.) — both since dead.
1847, June 28. Letters of administration on the estate of Sarah Champion, granted to *Aaron Zane and James Ellis.

P. 66. N. Book.

2. Ann.

J. Gill, &c., ut sup. — married Isaac Ellis.
A. Lippincott, p. 14. — he died "about a year ago," (viz., 1828.)
— she is since dead.
P. 66. N. 6. 1848, May 19. Letters of administration on the estate of Ann *Ellis, granted to *Joseph Ellis.

3. John.

John Gill & al., (ut supra.) — living in 1829.
— died since.
(P.66. N. 6.) 1848, May 16. Letters of administration on estate of John Zane to *Obed Welden.

4. Samuel.

J. Gill & al., u. s. — living in 1829.
— died 1843, (says Mr. Newbold.)
P. 66. N. 6. 1847, June 28. Letters of administration on estate of Samuel C. Zane to *Aaron Zane and Joseph Ellis.

5. Isaac.

J. Gill & al., ut supra. — living in 1829.
— died 1843, (says Mr. Newbold.)
P. 66. N. 6. 1850, Jan'y 8. Letters testamentary will of Isaac Zane to James Ellis and *Evan C. Smith.

III. Ann.

John Gill, p. 19. — married William Hinchman.
Rhoda Barton, p. 9.
J. Gill, ut supra. — died "about 60 years ago," i. e. 1769, (1829,) leaving
1. John,
2. Ann,
3. William,
4. James.

1. John Hinchman,

John Gill, p. 19, — "died four or five years ago, (1829,) I think before testator."
Elizabeth Hinchman, p. 22, (his widow.) "been dead as much as fifteen years," (1836) (died, therefore, about 1821.)
— he left a widow, Elizabeth, and eight children.
E. Hinchman, John Keen, p. 33. 1. *Hannah married *Joseph White, both living in 1836.

1077.

Wm. Hinchman, p. 34.
Do. 2. *Elizabeth married Thomas Hollinshed.
Do. — she living in 1836—he dead.
Do. *3. Ann Hinchman,
Do. living in 1836, unmarried.
Do.
Do. *4. John Hinchman,
Do. living in 1836.
Do. *5. William Hinchman,
Do. living in 1836.
(Witness,) p. 34.
Do. *6. Jacob Hinchman,
Do. living in 1836.
Do.
Do. *7. Catharine married Joseph Heritage, (P. M'Call.)
Do. both living in 1836.
Do. *8. Rebecca married Benjamin Thomas, (P. M'Call.)
Do. both living in 1836.

2. Ann Hinchman.

John Gill, p. 19. — married John Scull.
Id. — "died, perhaps ten or twelve years ago, (1829,) leaving children in Ohio."
Joseph Hinchman, N. B., p. 5. — John died about forty years ago, (viz., about 1810.)
— Ann about eight years after her husband, (viz., 1818.)

1849, April 3. (Newcomb.) Petition of William Scull, of the county of Louisa, in the State of Iowa.
— sets forth that he "is the son of John Scull and Ann his wife, late Ann Hinchman," &c.
— does not state that he is only child.

John Zane, p. 32. Ann Scull and husband both dead.
— they left
Id. 1. Keziah, died unmarried, thirty or forty years ago.
Id. *2. Joseph, living about a year ago, (1830.)

Abigail Albertson, N. B., p. 4.
Joseph Hinchman, Do. p. 5.
} Living about two months ago, (January, 1850,) in Ohio.

Do. do. *3. Ann married John Shannon.
Id. — both living "about a year ago."
Do. do. do. do. January, 1850.

Id. *4. John, living 1830, do. do
Do. do.

Id. *5. Rebecca married Thomas Stiles.
Do. do. both living 1830, do. 1850, in Indiana.

Id. *6. Ruth married John Middleton; living a
Do. do. year ago.
J. Hinchman. John Middleton is dead. 1850.

Do. do. *7. William living in 1850.

The above reside in the western country.

3. William Hinchman.

Ann Martin, p. 27. — died 4 years ago last Feb,, (1830,) viz., in 1826.

J. Gill, p. 19. — "about 2 or 3 years ago," (1829.)

New Book, p. 3. Caleb Robert says that William Hinchman died about 1st Feb., 1826.

p. 65. Glo'ster co., N. J. 1826, Feb. 1. Letters of administration on estate of Wm. Hinchman to Joseph Hinchman.

p. 69. Philada. 1850, Jan. 2. Letters of administration d. b. n. of W. H., dec'd, to *Joseph Hinchman.

4. James Hinchman.

J. Gill, p. 19. — died 4 or 5 years ago, (1829,) leaving no children.

p. 65. Burlington co., N. J. 1825, March 1. Letters of administration on estate of James Hinchman, deceased, to Joseph Hinchman and Thomas Hollinshead, (since dead.)

p. 70. Philadelphia 1850, Jan. 23. Letters of administration d. b. n. of James Hinchman, deceased, to *Joseph Hinchman.

John Perkins, N. B., p. 4. James Hinchman died about 22d of February, 1825.

J. Gill. IV. Benjamin Hartley.

p. 19. — died during the revolution, leaving—
1. Rebecca.

2. Mercy.
3. James.
4. Asher.
5. Barsheba.
6. Elizabeth.
7. Mary.

1. Rebecca Hartley,
J. Gill, p. 19. — married Thomas Burrough.
— living, (1829,) without children.
— died, (it seems,) about 1831.

N. B. p. 66. 1831, Dec. 21. Letters testamentary on will of Rebecca Burrough, granted by register of Glos'ter co., N. J., to *Wm. Brick.

2. Mercy.
J. Gill, p. 19. — married John Brick.
Id. — died 20 or 30 years ago, (1829,) leaving
Id. — but one child that I know, viz., John Brick.
— died in 1843, says Mr. Newbold.

N. B., p. 67. 1850, Jan. 10. Letters of administration on estate of John Brick to *Zebral Brick.

3d. James Hartley.

J. Gill, p. 19. — died about seven years ago, (1829.)
Id. — left two children, viz., Thos. & Elizabeth.
Phœbe Gibb, p. 28. — died I suppose more than five years ago.
Id. — I believe he left 4 children. I only knew two of them, viz., Thos. and Elizabeth.

J. Gill. 1. Thomas. Living in Phil. in 1829.
P. Gibbs. — living in Phila. in 1830.
— died in 1832, says Mr. Newbold.

N. B. p. 67. 1850, Jan. 17. Letters of adm. (d. b. n.) c. t. a. of Thos. B. Hartley, granted by register of Phila. to *Joshua P. Browning.
Q. identity.

2d. Elizabeth.

J. Gill. — married Danl. Fortner, and died 4 or 5 years ago.
P. Gibbs. do. do.

1850, Jan. 17. Letters of adm'r on estate of Elizabeth Fortner by register of Phil. to *Joshua P. Browning.

4. Asher Hartley.
John Gill, p. 19. — now living, (1829.)
— died in 1836, says Mr. Newbold.

N. B., p. 66. 1848, Oct. 5. Letters of administration of estate of Asher Hartley, granted by reg. on Phila. to *Matthias Aspden Hartley.

5. Barsheba Hartley.

J. Gill, p. 19. — married John Brick, (who had previously married and survived her sister Mercy.)

Id. — she is now, (1829,) living a widow.
— she died in 1831, says Mr. Newbold.

N. B. p. 67. 1850, Feb. 7. Letters of adm. c. t. a. of Bathsheba Brick, granted by Register of Phil. to *Jacob S. Brick.

6. Elizabeth Hartley.

J. Gill. p. 19. — married Samuel Brick.
Id. — they are both living (1829.)
— she died in 1844, says Mr. Newbold.

N. B. p. 66. 1850, Jan. 5. Letters of adm. c. t. a. of Elizabeth Brick, granted by reg. of Phil. to *Abraham Kirby.

7. Mary Hartley.

J. Gill, p. 19. — married Samuel Brown.
Id. — she died 10 or 12 years since, (1829.)
— leaving several children.
Wm. Brown, N. B. p. 10. — died, I think, 25 years ago, (1850.)
Id. — *Saml. Brown is still living.
Id. — she left 6 children, viz.

Id. 1. Edward Brown, living 1850.
(Called Edmund by Mr. Newbold.)
Id. 2. *Mary, married Silas Anthony, living 1850.
Id. 3. *Elisha Brown, living 1850.
Id. 4. *Benjamin Brown, living 1850.
Id. 5. Thomas Chalkley Brown.
— died 4 or 5 years ago, (1850.)
N. B. p. 67. 1845, July 19. Letters testamentary on the will of Thomas C. Brown, granted to *Samuel Baugh.
Wm. Brown, ut supra. 6. Ezra Brown, living 1850.

V. James Hartley.

John Gill, p. 19. — died 50 years ago, (1829,) without issue.
John Zane, p. 32. — died without issue.
Edw. Hartley, N.B. p. 20. do. do.

VI. Rebecca Hartley.

Rhoda Borton, p. 9. — married John Kay. Both dead.
John Gill, p. 19. — married John Key or Kay, and died 15 or 18 years ago, leaving

1. Mary.
2. Rebecca.
3. Elizabeth.
4. Isaac.
6. Matthias.
7. Ann.

1. Mary Kay, or Key.

John Gill, p. 19. — married John Church, and now (1829) living.

A. Lippincott, p. 14. — do. do. "she is living," 1829.

Mr. Everly, N. B., p. 9. — Mary Ann Church, daughter of Mary Kay, who married John Church, married Geo. M. Everly; this was after her mother's death.

D. Darley, N. B., p. 10. — Mary Ann Everly m. July 21, 1825.

C. Johnston, do. p. 9. — " died about three years ago, (1850.)

By statement signed Franklin Baugh per Geo. M. Everly, it is set forth that Mary Ann Everly was one and "perhaps the only child" of Mary Church, Mrs. Key.

But according to Mr. Price's statement, Mary Kay, the mother, made her will, dated 1838, Dec. 31, by which she appointed executors and trustees for her daughter Mary Ann Everly, for her life, with power of appointment, which she exercised in favor of J. W. Nevins, who also administered on estate of Mrs. Church.

N. B., p. 65. 1849, Oct. 16. Letters of administration d. b. n. c. t. a. Estate of Mary Ann Church by register of Philada., to J. West Nevins.

John Gill, p. 19. 2d. Rebecca Kay.
— married 1st Isaac Bolton.
2d Nehemiah Fowler.

Id. — she is now (1829) living, a widow.

Rebecca Fowler, p. — examined as a witness in 1829, respecting other members of the family.

— she died in 1846, according to Mr. Newbold.

N. B., p. 67. 1849, Dec. 24. Letters of administration on estate of Rebecca Fowler, granted by register of Philadelphia, to Rebecca K. Bartram.

3d. Elizabeth Kay.

John Gill, p. 19. — married John West, died 7 years ago, 1829.

J. W. Horner, N. B., p. 1. — died Oct. 1812.
— she left—

1. *Jane, m. Joseph P. Horner, (who died in 1845.)

J. W. Horner. — she is living, 1850.

2. Mary, m. Whitton Evens.

Id. — both dead.

N. B., p. 63. — 1834, Nov. 12. Administration of estate of Mary Evens, granted in Philadelphia to *C. W. Horner.

3. *John West.

J. W. Horner. — living, 1850, in New Orleans.

4. Rebecca.

R. Fowler, p. 21. — died 6 or 7 years ago, (1829,) unmarried and without issue.

5. *Eliza, m. Samuel Nevins.

J. W. Horner. both living, 1850.

6. Harriet m. Dexter Stone.

J. W. Horner. — she died in 1823. He in 1847.
— left two children.

1. *Lawson B. Stone, living 1850, in N. O.
2. Thos. West Stone, died 1842.

N. B., p. 67. 1849, Dec. 17. Administration of estate of T. W. Stone, to *Thomas Balch, esq., in Philadelphia.

7. Thomas West.
— died in 1828.

1849, Dec. 28. Administration of estate of Thos. K. West, granted in Philadelphia to *Thos. Balch, esq.

4th. Isaac Kay.

John Gill, p. 20. — died about 12 or 14 years ago, (1829.)
— leaving two daughters:

1. *Mary, married Joseph Key.

J. Gill. — living in 1829.
— and said by Mr. Price to be living, 1850.

2. *Henrietta, married Wm. Key.

Id. — living in 1829.
— and said by Mr. Price to be living, 1850.

5th. John Kay.
— died 18 or 20 years ago, (1829,) without issue.

6th. Matthias Key.

John Gill, p. 20. — died 9 or 10 years ago, (1829,) leaving several children.

Charles E. Cathrall, N. B., p. 6. — died about 1816.

Id. — his children went to western country.

Id. and Charles Kay, p. 7. 1. Eliza, married David Wilson.
— he died first.
— she died in 1849, leaving children.

N. B., p. 67. 1850, Jan. 8. Letters of administration on estate of Elizabeth Wilson, by register of Philad'a, to *James P. Frazer, senior.

Cathrall & Kay, (ut sup.) 2. *Ann, married —— Pardee.
— she is living, 1850.

Id. 3. *John Kay.
— living, 1850.

C. Kay. 4. Rebecca.
— died single, about 1827.

N. B., p. 68. 1850, March 20. Administration of estate of Rebecca Kay, by register of Philadelphia, to *Chas. Kay.

Id. 5. *Miriam, married Clayton Jones.

Id. Joshua Jones, p. 7. — died about Aug. 7, 1849.
— leaving her husband surviving.

N. B., p. 67. 1850, Jan. 8. Letters of administration on estate of Miriam Jones, granted by register of Philad'a to *James P. Frazer, senior.

E. C. Cathrall. 6. *Charles Kay.
— residing in East Fairfield, Columbiana co., Ohio, 1850.

7th. *Ann Key.

John Gill, p. 20. — married—

Id. 1. Dr. Charles Cathrall.

C. E. Cathrall, p. 6. 2. Joseph Worrell.
— *she survived both, and is living, 1850.

(D.)

2d. A schedule, containing a table of the names of the kindred of the half blood entitled to distributive shares, with their respective degrees of relationship to the testator.

1st. Ex parte paterna.

1 Children of deceased sister.	2 Grandchildren of deceased sister.	3 Great grandchildren of deceased sister.
(1) Issue of Matthias Harrison.	James McMurtrie and Rebecca his wife.	Mary Francis Harrison. (John Brown Francis, adm'r.)
2. George Harrison. (Sophia Harrison, adm'x.)		
(3) Issue of Mary White.	Thomas H. White, Elizabeth McPherson, (Thos. H. White, ad'r) Mary Bronson, (Geo. Rundle, adm'r.)	

2d. Ex parte materna.

Children of deceased brothers, &c.	Grandchildren of deceased brothers, &c.	Great grandchildren of deceased brothers, &c.
Benjamin Hartley, (Peter Hartley, adm'r.)		
James Hartley, (Mat. Hartley, adm'r.)		
John Hartley, (C. Shaler, esq., adm'r.)		
Roger Hartley.		
Issue of Thomas Hartley.	Jesse Hartley, Rannels and Rebecca, David Hartley, Tolbert and Mary, James Sloanaker and Nancy, Daniel Luce and Susanna.	
	{ Representatives of Peter Hartley.* }	
Rebecca Doan, Edward Hartley.		

Children of deceased brothers, &c.	Grandchildren of deceased brothers, &c.	Great grandchildren of deceased brothers, &c.
Issue of Martha Pegg.	Peter Wilson and Susanna, Uriah Woods and Dorothy, Wm. Jacobs and Martha, Peter Peggs, Daniel Peggs, James Peggs, Elizabeth Wilson, (Alfred Howell, administrator,) Edward Peggs's representatives.*	
Barsheba Adams, (Thos. Adams, adm'r.)		
Sarah Champion, (Aaron Zane and Jas. Ellis, adm'rs.)		
Ann Ellis, (Joseph Ellis, adm'r.)		
John Zane, (Obed Welden, adm'r.)		
Samuel C. Zane, (A. Zane and J. Ellis, adm'rs.)		
Isaac Zane, (Jas. Ellis and Evan C. Smith, adm'rs.)		
Issue of John Hinchman.	Joseph White & Hannah, Elizabeth Hollinshed, Ann Hinchman, John Hinchman, William Hinchman, Jacob Hinchman, Jos. Heritage & Catharine, Benj. Thomas & Rebecca.	
Issue of Ann Scull.	Joseph Scull, John Shannon & Ann.	

Children of deceased brothers, &c.	Grandchildren of deceased brothers, &c.	Great grandchildren of deceased brothers, &c.
Issue of Ann Scull.	John Scull, Thomas Stiles & Rebecca, Ruth Middleton, William Scull.	
William Hinchman, (Joseph Hinchman, administrator d. b. n.)		
James Hinchman, (Joseph Hinchman, administrator d. b. n.)		
Rebecca Burrough, (Wm. Brick, adm'r.)		
Issue of Mercy Brick.	John Brick, (Zebiah Brick, adm'r.)	
Issue of James Hartley.	Thomas B. Hartley, (Jos. P. Browning, adm'r.) Elizabeth Fortiner, (Jos. P. Browning, adm'r.)	
Asher Hartley, (M. A. Hartley, adm'r.)		
Barsheba Brick, (Jacob S. Brick, adm'r.)		
Elizabeth Brick, (Ab'm Kirby, adm'r.)		
Issue of Mary Brown.	Edward Brown, Silas Anthony an Mary, Elisha Brown, Benjamin Brown. Thomas Chalkley Brown, (Samuel Baugh, ex Ezra Brown.	
Mary (or Mary Ann) Church, (J. West Nevins, ad'mr.) Rebecca Fowler, (R. K. Bartram, adm'r.)		

Children of deceased brothers, &c.	Grandchildren of deceased brothers, &c.	Great grandchildren of deceased brothers, &c.
Issue of Elizabeth Kay.	Jane Horner, Mary Evens, (C. W. Horner, administrator.) John West, Samuel Nevins and Eliza. Thomas R. West, (Thos. Balch, esq., adm'r.)	Lawson B. Stone, Thomas West Stone, (Thos. Balch, esq., adm'r.)
Issue of Isaac Kay.	Joseph Key and Mary, William Key and Henrietta.	
Issue of Martha Key.	Eliza Wilson, (Jas. P. Frazer, sr., adm'r.) Ann Pardee, (widow,) John Kay, Rebecca Kay, (Charles Kay, adm'r.) Miriam Jones, (Jas. P. Frazer, sr., adm'r.) Charles Kay.	
Ann Worrell.		

(E.)

3d schedule, containing

1. A table of the names of the kindred of the half blood ex parte paterna, and of the shares to which they would be respectively entitled, supposing the maternal half blood to be excluded; and of the names of their solicitors.

John Brown Francis, administrator of Mary Harrison - -	1-2 of 1-3	H. D. Gilpin.
James McMurtrie, and Rebecca his wife - - - -	1-2 of 1-3	W. M. Tilghman.
Sophia Harrison, executrix of Geo. Harrison - - -	1-3	H. D. Gilpin.
Thomas H. White - -	1-3 of 1-3	J. G. Clarkson.
Thomas H. White, executor of Mrs. McPherson - -	1-3 of 1-3	J. G. Clarkson.
George Rundle, administrator of Mrs. Bronson - - -	1-3 of 1-3	J. G. Clarkson.

2d. A table of the names of the kindred of the half blood, both paternal and maternal, and of their respective shares, "on the supposition that the division is to be between both stocks of half blood relations," and of the names of the respective solicitors.

1. *Paternal kindred.*

John B. Francis, administrator of Mary Harrison	1-2 of 1-35	H. D. Gilpin.
James McMurtrie and Rebecca his wife	1-2 of 1-35	W. M. Tilghman.
Sophia Harrison, executrix of Geo. Harrison	1-35	H. D. Gilpin.
Thomas H. White	1-3 of 1-35	J. G. Clarkson.
Thomas H. White, executrix of Mrs. McPherson	1-3 of 1-35	J. G. Clarkson.
George Rundle, administrator of Mrs. Bronson	1-3 of 1-35	J. G. Clarkson.

2. *Maternal kindred.*

Peter Hartley, administrator of Benjamin Hartley	1-35	Newbold.
Matthias Hartley, administrator of James Hartley	1-35	Newbold.
Charles Shaler, administrator of John Hartley	1-35	Newbold.
Roger Hartley	1-35	Newbold.
Jesse Hartley	1-6 of 1-35	Newbold.
David Hartley	1-6 of 1-35	Newbold.
*James (or Hugh) Rannels and Rebecca, his wife	1-6 of 1-35	
*Tolbert and Mary, his wife	1-6 of 1-35	
James Slonaker and Nancy, his wife	1-6 of 1-35	Newbold.
Daniel Luce and Susanna, his wife	1-6 of 1-35	Newbold.
*Peter Hartley's representatives	1-35	
Rebecca Doan	1-35	Newbold.
Edward Hartley	1-35	Thayer.
Peter Wilson and Susanna, his wife	1-8 of 1-35	Thayer, Fallon.
Uriah Woods and Dorothy, his wife	1-8 of 1-35	Fallon.
William Jacobs and Martha, his wife	1-8 of 1-35	Fallon.
Peter Peggs	1-8 of 1-35	Fallon.
Daniel Peggs	1-8 of 1-35	Fallon, Thayer.
James Peggs	1-8 of 1-35	Thayer.
Alfred Howell, administrator of Elizabeth Wilson	1-8 of 1-35	Fallon.
*Edward Peggs's representatives	1-8 of 1-35	

Thomas Adams, administrator of Bersheba Adams - -	1-35	Newcomb, McLaughlin.
A. Zane and J. Ellis, administrators of Sarah Champion -	1-35	J. M. Read.
Joseph Ellis, administrator of Ann Ellis - - - -	1-35	Newbold.
Obed Welden, administrator of John Zane - - -	1-35	Newcomb, Newbold.
A. Zane and J. Ellis, administrators of Samuel C. Zane -	1-35	J. M. Read.
J. Ellis and E. C. Smith, administrators of Isaac Zane - -	1-35	Newcomb, Newbold.
Joseph White, and Hannah his wife - - - -	1-8 of 1-35	P. M'Call.
Elizabeth Hollinshead, (widow) -	1-8 of 1-35	P. M'Call.
Thomas Warrington and Ann, his wife - - - -	1-8 of 1-35	J. M. Read.
John Hinchman - - -	1-8 of 1-35	J. M. Read.
William Hinchman - -	1-8 of 1-35	J. M. Read.
Jacob Hinchman - - -	1-8 of 1-35	J. M. Read.
James Heritage and Catherine, his wife - - - -	1-8 of 1-35	P. M'Call.
Benjamin Thomas and Rebecca, his wife - - -	1-8 of 1-35	P. M'Call.
Joseph Scull - - -	1-6 of 1-35	Newcomb.
*John Shannon and Ann, his wife	1-6 of 1-35	
John Scull - - -	1-6 of 1-35	Newcomb.
Thomas Stiles and Rebecca, his wife - - - -	1-6 of 1-35	Newcomb.
*Ruth Middleton (widow). -	1-6 of 1-35	
William Scull - - -	1-6 of 1-35	Newcomb.
Jos. Hinchman, administrator d. b. n. of William Hinchman -	1-35	Newcomb.
Jos. Hinchman, administrator d. b. n. of James Hinchman -	1-35	Newcomb.
William Brick, executor of Rebecca Burrough - - -	1-35	Newbold.
Zebiah Brick, administrator of John Brick - - - -	1-35	Newbold.
J. P. Browning, administrator of Thomas B. Hartley - -	1-2 of 1-35	Newbold.
J. P. Browning, administrator of Elizabeth Fortner - -	1-2 of 1-35	Newbold.
M. A. Hartley, administrator of Asher Hartley - - -	1-35	Newbold.
Jacob S. Brick, administrator of Barsheba Brick - -	1-35	Newbold.

Abm. Kirby, administrator c. t. a. of Elizabeth Brick	1-35	Newbold.
Edward (or Edmund) Brown (Jabez Burchard, assignee in bankruptcy)	1-6 of 1-35	Newbold. R. P. Kane.
Silas Anthony and Mary, his wife	1-6 of 1-35	Newbold.
Elisha Brown	1-6 of 1-35	Newbold.
Benjamin Brown	1-6 of 1-35	Newbold.
Samuel Baugh, executor of Thomas C. Brown	1-6 of 1-35	Newbold.
Ezra Brown	1-6 of 1-35	Newbold.
J. West Nevins, administrator c. t. a. of Mary Church	1-35	E. K. Price.
R. K. Bartram, administrator of Rebecca Fowler	1-35	Newbold.
Jane W. Horner (widow)	1-6 of 1-35	E. K. Price.
C. W. Horner, administrator of Mary Evens	1-6 of 1-35	E. K. Price.
John K. West	1-6 of 1-35	E. K. Price.
Samuel Nevins and Eliza, his wife	1-6 of 1-35	E. K. Price
Lawson B. Stone	1-2 of 1-6 of 1-35	Heiskell.
Thomas Balch, administrator of Thomas West Stone	1-2 of 1-6 of 1-35	Heiskell.
Thomas Balch, administrator of Thomas R. West	1-6 of 1-35	Heiskell.
Joseph Key (or Kay) and Mary, his wife	1-2 of 1-35	E. K. Price.
William Key (or Kay) and Henrietta, his wife	1-2 of 1-35	E. K. Price
James P. Frazer, sen'r, administrator of Eliza Wilson	1-6 of 1-35	Newbold.
James P. Frazer, sen'r, administrator of Miriam Jones	1-6 of 1-35	Newbold.
Ann Pardee	1-6 of 1-35	Newbold.
John Kay	1-6 of 1-35	Newbold.
Charles Kay, administrator of Rebecca Kay	1-6 of 1-35	Newbold.
Charles Kay	1-6 of 1-35	Newbold.
Ann Worrell (widow)	1-35	Newbold

Supplement.

PACKER
vs.
NIXON.

To the honorable the judges of the circuit court of the United States, in and for the eastern district of Pennsylvania, in the third circuit.

I respectfully state: That in conformity with the 5th rule of this court, I did, on the twenty-ninth day of August last, cause notice to be given to the counsel on the record of the several parties in this cause, that it was my intention to file my report on a day therein designated, viz., on the fourteenth day of September then following; and the better to enable the counsel to have access to the report, I sent to each of the said counsel a printed copy of the proposed report, and of the evidence taken by me; which copies of the report and evidence had been printed by virtue of the order of this court, made on the seventeenth day of May last; and I annex hereto a copy of the notice so sent by me.

And I further state, that the following exceptions have been filed with me, viz:

(1.) By M. Russell Thayer, esq., on behalf of the parties represented by him.

(2.) By William Rawle and Thomas A. Budd, esqs., for Samuel Jackson, administrator d. b. n. c. t. a. of John Aspden, of Lancashire, deceased.

(3.) By Wm. B. Reed and H. J. Williams, esqs., for J. A. Brown, administrator of John Aspden, of London.

(4.) By B. Newcomb, John M. Read, John L. Newbold, and Christopher Fallon, esqs., for the parties represented by them respectively.

Which exceptions are hereunto annexed.

And I further state, that I have reconsidered the subject of the said proposed report; and, being of opinion that none of the said exceptions are, in whole or in part, well founded, I have not seen cause to amend the said report in respect to any of the points contained in the said exceptions.

It is proper to add, however, that Mr. Fallon has informed me, in writing, that he withdraws his appearance for Peter Wilson and Susanna, his wife, and for Daniel Peggs, for whom he is reported in the foregoing schedule E to be solicitor as colleague of Mr. Thayer. I therefore amend the said schedule, by reporting that the solicitor of Peter Wilson and Susanna, his wife, and of Daniel Peggs is M. Russell Thayer, esq.

All which is respectfully submitted.

T. I. WHARTON, *Master.*

September 18, 1850.

Notice to counsel.

Estate of Matthias Aspden, dec'd.

PACKER vs. NIXON. } C. C. U. S., April sess., 1828, No. 1, in equity.

DEAR SIR: I send you a printed copy of the proposed report, under the reference of the 24th of September, 1849, together with a printed copy of the testimony taken since the printing of the paper book in May last; and, in compliance with the rule of this court, I hereby give you notice that it is my intention to file my report in this case on Saturday, the fourteenth day of September, 1850.

Under the same rule, exceptions must be filed with me within two weeks after the receipt of this notice.

Yours, respectfully,

T. I. WHARTON, *Master.*

150 Walnut street, August 29, 1850.

Exceptions to the report.

PACKER vs. NIXON. } Circuit court U. S., April sessions, 1828, No. 1, in equity.

Exceptions to the report of the master, made under the reference of September, 1849; filed with the master September 5, 1850, on behalf of the parties and claimants represented by M. Russell Thayer.

I. The master erred in reporting that the said testator, Matthias Aspden, did not at the time he made his will, or afterwards, hold any lots or lands, by purchase, descent, or devise, from his mother.

II. The master erred in reporting that the said testator, Matthias Aspden, did not at the time he made his will, or at any time afterwards, hold or claim any lots or lands, by purchase, descent, or devise from his mother.

III. Because the ratio of distribution set forth by the master in schedule (E) on p. 64 et seq., is not framed upon a correct basis; proportions being reserved in favor of unknown persons, or representatives of persons supposed to be entitled, who have never been made parties, and who have never asserted any title or claim to participate in the distribution.

M. RUSSELL THAYER,
Solicitor for Edward Hartley, Peter Wilson and Susanna, his wife, Daniel Peggs, James Peggs.

The following named parties and claimants except to the report of the master.

Because they are excluded from the "table of the names of the kindred of the half blood, both paternal and maternal, and of their respec-

tive shares, on the supposition, that the division is to be between both stocks of half blood relations;" which table commences on p. 65 of the report, and because they are not reported by the master as kindred of the half blood, ex. p. materna, entitled to distribution, to wit:

John Wilson,
Edward Wilson,
Alex. Lawrence and Agnes, his wife, (late Agnes Wilson,)
John Adams,
Thomas Adams,
Jacob Adams,
Elizabeth McConnaughey, (late Eliz. Adams,)
Elias Maple and Maria B., his wife, (late Maria B. Adams,)
Margaret Adams,
Peter Adams.

M. RUSSELL THAYER,
For the said parties and claimants.

PACKER
vs.
NIXON.

C. C. U. S., April term, 1828. No. 1.

Samuel Jackson, administrator D. B. N. C. T. A. of John Aspden, of Lancashire, deceased, excepts to the report of the master in the above case, because the master rejected all the evidence offered on the part of the whole blood, and declined hearing the counsel, in support of their claims, and in opposition to the claims of the half blood.

WM. RAWLE,
THOS. A. BUDD,
Solicitors for the above exceptant.

September 11th, 1850.

PACKER
vs.
NIXON.

Circuit court, April, 1828. No. 1.

Exceptions to the report of Thomas I. Wharton, esq., under the reference to him as master, of September, 1849.

1. Because the said master (see printed report, p. 3,) rejected all evidence offered on the part of the whole blood, and declined hearing counsel on their behalf, except upon the question to the real estate, and the state or amount of the assets in the hands of the administrator D. B. N. with the *bill* annexed.

2. Because he reported that the remote kindred of the whole blood, whether on the part of the father or mother, were to be excluded. (Printed report, p. 4.)

3. Because the kindred of the whole blood was excluded from giving

Notice to counsel.

Estate of Matthias Aspden, dec'd.

PACKER vs. NIXON. } C. C. U. S., April sess., 1828, No. 1, in equity.

DEAR SIR: I send you a printed copy of the proposed report, under the reference of the 24th of September, 1849, together with a printed copy of the testimony taken since the printing of the paper book in May last; and, in compliance with the rule of this court, I hereby give you notice that it is my intention to file my report in this case on Saturday, the fourteenth day of September, 1850.

Under the same rule, exceptions must be filed with me within two weeks after the receipt of this notice.

Yours, respectfully,

T. I. WHARTON, *Master*.

150 Walnut street, August 29, 1850.

Exceptions to the report.

PACKER vs. NIXON. } Circuit court U. S., April sessions, 1828, No. 1, in equity.

Exceptions to the report of the master, made under the reference of September, 1849; filed with the master September 5, 1850, on behalf of the parties and claimants represented by M. Russell Thayer.

I. The master erred in reporting that the said testator, Matthias Aspden, did not at the time he made his will, or afterwards, hold any lots or lands, by purchase, descent, or devise, from his mother.

II. The master erred in reporting that the said testator, Matthias Aspden, did not at the time he made his will, or at any time afterwards, hold or claim any lots or lands, by purchase, descent, or devise from his mother.

III. Because the ratio of distribution set forth by the master in schedule (E) on p. 64 et seq., is not framed upon a correct basis; proportions being reserved in favor of unknown persons, or representatives of persons supposed to be entitled, who have never been made parties, and who have never asserted any title or claim to participate in the distribution.

M. RUSSELL THAYER,
Solicitor for Edward Hartley, Peter Wilson and Susanna, his wife, Daniel Peggs, James Peggs.

The following named parties and claimants except to the report of the master.

Because they are excluded from the "table of the names of the kindred of the half blood, both paternal and maternal, and of their respec-

tive shares, on the supposition, that the division is to be between both stocks of half blood relations;" which table commences on p. 65 of the report, and because they are not reported by the master as kindred of the half blood, ex. p. materna, entitled to distribution, to wit:

John Wilson,
Edward Wilson,
Alex. Lawrence and Agnes, his wife, (late Agnes Wilson,)
John Adams,
Thomas Adams,
Jacob Adams,
Elizabeth McConnaughey, (late Eliz. Adams,)
Elias Maple and Maria B., his wife, (late Maria B. Adams,)
Margaret Adams,
Peter Adams.

M. RUSSELL THAYER,
For the said parties and claimants.

PACKER
vs.
NIXON.

C. C. U. S., April term, 1828. No. 1.

Samuel Jackson, administrator D. B. N. C. T. A. of John Aspden, of Lancashire, deceased, excepts to the report of the master in the above case, because the master rejected all the evidence offered on the part of the whole blood, and declined hearing the counsel, in support of their claims, and in opposition to the claims of the half blood.

WM. RAWLE,
THOS. A. BUDD,
Solicitors for the above exceptant.

September 11th, 1850.

PACKER
vs.
NIXON.

Circuit court, April, 1828. No. 1.

Exceptions to the report of Thomas I. Wharton, esq., under the reference to him as master, of September, 1849.

1. Because the said master (see printed report, p. 3,) rejected all evidence offered on the part of the whole blood, and declined hearing counsel on their behalf, except upon the question to the real estate, and the state or amount of the assets in the hands of the administrator D. B. N. with the *bill* annexed.

2. Because he reported that the remote kindred of the whole blood, whether on the part of the father or mother, were to be excluded. (Printed report, p. 4.)

3. Because the kindred of the whole blood was excluded from giving

any further evidence to support their claim, or even from presenting the same as next of kin of the whole blood of the testator.

WM. B. REED,
H. J. WILLIAMS,
For J. A. Brown, administrator of John Aspden, of London.

PACKER
vs.
NIXON.

Circuit court, United States, E. D. of Pennsylvania, April sessions, 1828. No. 1.

Exceptions taken to the report of Thomas I. Wharton, esquire, master, to whom the cause stands referred by an order of the 24th September, 1849, made in pursuance of the decree of the 6th August, 1849, with the instructions and orders of the court subsequently given and made.

1st exception. That on the 10th page of his printed report, the master has erred in stating that it would probably be sufficient for him to refer to the decision of the court of the 6th August, 1849, of which he gives an extract:

1. Because, in the instructions given by the court on the 29th October, 1849, he is expressly directed to report "what lands were held or claimed by the testator at the time he made his will, or afterwards, and how held, whether by purchase or by descent or devise from either father or mother;" "as the last question has been raised by the decision of the court, the master will use every means in his power to ascertain the fact, without being confined to the record."

2. Because it was his duty to examine into and report all the facts, as well in relation to any such estate coming on the part of the father, as well as to that coming on the part of the mother.

3. Because the point suggested by the court was never suggested nor argued by counsel, nor the evidence collated to bring out the facts necessary to a proper decision; nor was it in the possession of the court, as clearly appears by the evidence since taken before the master, and it was the object of the court to have the whole of the evidence on this point laid before them.

4. Because it now appears that the real estate in New Jersey, devised to the testator by his father, was sold and conveyed by him when of full age, and before he left Pennsylvania for England; and that the estates in Water street and in Chester county, the only other real estate devised to him by his father, were, on the 1st January, 1782, forfeited to the State, and that on the 1st of March, 1782, the Water street estate was assigned to the University of the State of Pennsylvania, and was confirmed to them by the act of 22d September, 1785, and the trustees of the said University sold and conveyed the same on the 3d November, 1791, to Joseph Mercier; and the plantation in Chester county was sold by the order of the Supreme Executive Council, and purchased

by Edward Bartholomew on the 29th April, 1786, and patented to him on the 26th August of the same year.

By which acts all title of any kind to the said estate was forever divested out of the said testator, and conveyed by due course of law to bona fide purchasers, (1 Yeates, 495;) and there remained in the said testator no right of entry, claim, or title of any kind, to any part of said estates; and he therefore could neither claim nor hold any estate coming on the part of his father, and the master could not report how they were held.

5. That the only claim which he could have would have been, in case of reversal of his attainder, to apply to the legislature to be indemnified out of the public treasury to the amount of the purchase money of such estate, which spes recuperandi was personal and not real in its character, and expressly negatived all title or claim of any kind to the land itself.

6. Because he was not only out of possession, but had not the shadow of title to any part of said real estate, either at the date of the will, or afterwards.

7. Because the act of limitations of 26th March, 1785, in fifteen or twenty-one years extinguishes any possible claim that might have remained in him after the date of his will.

8. Because the said testator had no right of entry or title of entry to said lands at the time of making his will, or for several years before, nor ever afterwards, nor had he any claim to the possession of the same upon which he could have maintained any action of any kind for the recovery thereof, whether ejectment or otherwise.

9. Because the testator could not have maintained any writ of right or any other real or possessory suit or action for the said lands.

2d exception. That the master has erred in reporting that, although he did not legally hold any part of said land, yet that he considered himself as the rightful owner of the land so forfeited; because, where the law is clear and plain, and no title could possibly be or remain in the testator, of any kind, the law does not recognise any such imaginary ownership, nor the ignorance of law, which such an assertion evidently implies; and that the denial of the legality of the attainder, as well as its moral justice, was of no consequence, as, in case of reversal, he never could recover the land, but must look to the State for indemnity, which the testator perfectly well understood, as appears by entries in his ledger (Yellow Book, pp. 307, 308) where he charges the State with the same.

3d exception. The master has erred in reporting "that the testator asserted and kept up a continual claim to the house and lot in Water street and to the land in Chester county, from the time of the forfeiture to near the period of his death," because these are technical words with a precise and defined meaning, whilst the rest of the report shows the testator never did a single act to bring himself within this meaning, (3 Blackstone's Com., 175; 2d, 316;) and even if he had, it could not

have availed him, for he had no title on which he could possibly recover.

4th exception. That although the master has explained his meaning of the words "continual claim," yet he has erred in using them at all, because he never did make any claim upon the persons in possession of said lands, either in person or by attorney, and being actually in the city of Philadelphia when the conveyance of the Water street property was made by the trustees of the University of Pennsylvania to Joseph Mercier, on the 3d November, 1791, he never interposed any claim of any kind, nor gave any notice of his title or claim, either to the grantors or grantees, as he was bound in justice to do, if he had any, to the same; and that the master has erred in giving any effect to letters or to wills, prior to the last, or to the alleged powers of attorney which were never used, and particularly to any papers or documents after any possible claim of any kind had been long barred by the statute of limitations.

5th exception. That the master has erred in not reporting that the testator believed or asserted that he had a claim on the State of Pennsylvania for the value or the purchase money of the said forfeited real estate, which was continued until near his death.

6th exception. That the master has erred in not reporting distinctly that the testator had no real estate coming on the part of his father, whether by purchase, devise, or descent, at the time of the execution of his will, or at any time afterwards, nor any right or title of entry thereto, nor any right, title, or claim of any kind to the same, and that he could neither legally enter into the same, or sustain any action of any kind therefor.

7th exception. That the master has erred in not reporting that the said testator had no real estate derived as aforesaid, either at the date of his will, or afterwards, or at his death; and that at the execution of his said will he had no right or title to the Water street and Chester county properties, which could be included in the words real estate.

8th exception. That the master has, therefore, erred in reporting that the testator claimed to be the rightful owner of real estate to which he had not the vestige of a title; and that it is an abuse of the word "claim," which has a legal defini*tion* meaning in law, to use it in such a sense as here, and throughout this part of the master's report.

9th exception. That the master has erred in reporting upon the age of the testator, (p. 23,) it appearing by the family bible, (yellow book, p. 301,) and also by evidence, on the issue to try the question of domicil, that he was born on the 21st November, 1748, and in lawful wedlock.

10th exception. That the master has erred in reporting that Daniel Jones (p. 19) was not entitled to 165 feet on Walnut street at the time of his death, and that there is a mistake in the third recital of the deed of the 24th of the 3d month, 1699, (p. 20;) and also in stating that Daniel Jones, in his lifetime, and his administrator and son, since his death, had conveyed away all the right, title, and interest of the said

Daniel Jones to the lots on Walnut street, between Fourth and Fifth streets from the Delaware; whereas he should have reported that there was 165 feet left at the death of Daniel Jones; that the above recital was correct, and that the right to a part of the lots on Walnut street was not conveyed away, as above set forth.

11th exception. That the master erred in reporting that the title to the lot number 155 (p. 20) was extinguished, or that the presumption was, that it was located on Walnut instead of Chestnut street; and that the master erred in his report that the said Matthias Aspden did not, at the time he made his will, or afterwards, hold any lots or lands by purchase, descent, or devise from his mother, unless for a reason he has not assigned, that they were forfeited to the State on the 1st of January, 1782.

12th exception. That the master has erred in reporting that, in the sense in which he has used the word claim, the testator did not claim such lands as are specified in the 11th exception, and has also erred in the enumeration of the affirmative and negative evidence on the subject.

13th exception. That the master has erred in reporting that he has not been able to find any affirmative evidence that he considered himself to possess any right or title whatever to any property of his mother, or any allusion whatever to it, because there is the deed of Rebecca Aspden and Daniel Packer, of the 10th of May, 1768, which was duly recorded, and a further deed of Jeremiah Carter and others, of the 30th May, 1768, (evidence, p. 73, 76,) to the testator, showing clearly that he did consider himself to possess such right, and that he bought in outstanding titles to the same property; and his acts on this point are testified to by Rhoda Barton, (red book, p. 12,) and Catharine Dilks, (ib., p. 22;) and there is the residuary clause of his cancelled will, of 31st March, 1791, (yellow book, p. 146,) which has no application whatever, unless it applied to and included the property conveyed by these two deeds; and that the master has erred in stating that only one-half of the right of Daniel Jones passed to Matthias Aspden; and also in stating that after arriving at full age he had entirely abandoned it, as there is no evidence of any abandonment of the claim at any time.

14th exception. That the master has erred in stating the evidence on the subject of the deeds and papers produced, and the custody from which they came, (22.)

These deeds and papers were found in a large trunk, deposited by the testator in bank for safekeeping, and accompanied the deeds for the Chester county property. They were in the custody of the executor, and the trunk itself contained some important papers and documents, such as the family bible and pedigree; and it is clear that he attached the same value to them that he did to the title deeds to the Chester estate, and that he must have had a similar belief as to his claim to these lots.

15th exception. That the master has erred in reporting that the said Matthias Aspden did not, at the time he made his will, or at any time afterwards, hold any lots or lands by purchase, descent, or devise from

his mother, unless for a reason he does not assign, that they were forfeited to the State on the 1st of January, 1782.

16th exception. That the master has erred in not reporting that the testator, at the time he made his will, and afterwards, and at his death, had no real estate whatever, nor any right or title of entry, or any legal or equitable claim to any such real estate; and that at none of those periods had he any property of any kind, which would pass by the words "real estate" in his will; and that all his property, rights, and claims, were covered by the words personal estate.

BAYSE NEWCOMB,
Solicitor for parties represented by him.
JNO. M. READ,
For parties represented by him.
JNO. L. NEWBOLD,
For parties represented by him.
CHRISTOPHER FALLON,
For parties represented by him.

September 11, 1850.

In the circuit court of the United States, in and for the eastern district of Pennsylvania, in the third circuit.

Of April session, 1828, No. 1.

PACKER vs. NIXON. } In equity.

And now, September 4, 1850, it is ordered that the time for filing the master's report be enlarged to Monday, the twenty-third of September, 1850.

A true copy, certified from the minutes.

GEORGE PLITT,
Clerk, C. C.

Errata in the report and schedule.

Page 11, line 18, for *gravel*, read *ground*.
" 17, " 3, for 200, read 220.
" 44, " 11, for *James* read *Joseph*.
" 49, last line, for *Zebral*, read *Zebiah*.
" 60, line 13, for *Jas.*, read *Joseph*.
" 60, " 23, for *Jas.*, read *Joseph*.
" 62, " 5, for *Edward*, read *Edmund*.
" 66, " 2, for *administrator*, read *executor*.
" 69, " 8, for *Fortner*, read *Fortiner*.

PACKER
vs.
NIXON.

Depositions taken on the hearing before the master, under the reference of September 24, 1849.

Friday, October 19th, 1849.

John W. Horner, affirmed—offered by Mr. Price—deposes as follows:

Elizabeth Kay, who married John West, died in October, 1812. I am her grandson. Joseph P. Horner, her son-in-law, died in September, 1845. Elizabeth West's children were

1. Jane West Horner, now living.
2. Mary, wife of Whitton Evans, both deceased; died since 1824.
3. John K. West, of New Orleans, now living.
4. Eliza, wife of Samuel Nevins, both living.
5. Harriet, wife of Dexter Stone. She died in September, 1823. He died about 1847. Their only living issue is Lawson B. Stone, of New Orleans. They had one other son, who died since 1824, without issue, unmarried, intestate, I presume.
6. Thomas R. West died since 1824, intestate, left one child.

Mary Kay became Mary Church.

(No cross examination.)

J. W. HORNER.

Friday, November 2d, 1849.

Thomas Aspden, sworn; offered by Mr. Reed; produces, first, deed from Rebecca Aspden and Daniel Packer to Matthias Aspden and Thomas Hartley, May, 1768.

(Original.)

Question. Where did you procure that deed?

Answer. I received that deed, with some others, from the hands of Henry Nixon, esq., late executor.

2d deed. Jeremiah Carter and others to Matthias Aspden, 30th May, 1768.

(Original.)

I received this deed at the same time from Mr. Nixon, with others.

I can't say whether it was in 1836 or 1837, but it was in one of the two years, to the best of my knowledge. It was in the Bank of North America that I received the deeds; they came out of a trunk, I believe; I saw the trunk in the bank, with a considerable number of documents, books, and other things in it. The one I saw in the bank was a large trunk, represented to me and others, by Mr. Nixon, as having a false bottom. (Mr. Clarkson objects to all statements of Mr. Nixon.) These two deeds have been in my possession ever since, till within the

last two months. They are the same papers; I identify from the writings on the backs. I am certain I gave a receipt to Mr. Nixon for these deeds.

Cross examined by Mr. Clarkson.

I am one of the claimants of this estate; several directors of the bank were present at the time; one an elderly gentleman, of the Society of Friends; don't recollect his name; there was a second story, where the directors held their sittings; it was in the old building, not the present; don't recollect names of persons present; I know Mr. Hockley, the present cashier; not certain he was present; believe Mr. Hollingsworth was the cashier; not certain if he was present; think there were about three persons besides Nixon and myself; received about eleven papers or documents from Mr. Nixon; might be twelve; some small papers; there were some other deeds; they are in my possession; there are six or seven deeds, I suppose; I have them now; I have them all in my possession, except three or four, which I parted with or gave to Mr. Naylor, a claimant on this estate.

Mr. Clarkson. Mr. Aspden, will you let us see those papers?

Witness. I will give you any extracts from them, or will let you see them. All I now have, relate to estates that came from father.

I disposed of the papers to Mr. Naylor for a very small consideration, about $40; I gave him three old deeds, besides a deed from myself. The deed from myself is a conveyance of all my interest in this estate, if I had any, derived from Daniel Jones.

Paper exhibited to witness, purporting to be dated 9th June, 1768, declaration or notice of revocation of warrant of attorney, signed Daniel Jones.

I recognise this as one of the papers I received from Mr. Nixon; sold to Mr. Naylor. (The two deeds are marked 5 and 11, and the last paper No. 3.)

THOMAS ASPDEN.

Monday, 19th November.

Caleb Roberts, affirmed. Reside at Camden; aged about 48 years; knew William Hinchman, formerly of Gloucester county; he was an old man when I knew him; died about 1st of February, 1826. I was undertaker then, and am so now, and buried him.

He left two sons that I was acquainted with, viz., Joseph and Thomas; Joseph is now present in this room. He resided about a mile out of Camden, in what is now Camden, formerly Gloucester county. The other children of William Hinchman were daughters; Ann married John Browning; she is living. Bathsheba, living, and widow of Benjamin Wiltse; she had been married before to one Forrest. Then there was Mary, who married David Ireland, and died about ten years, certainly less than twenty years ago. Then there was Martha living, and unmarried.

Besides these was Rachel, who also married Benjamin Wiltse, i. e. before her sister. She died just after her father, i. e. three days after her father; she was buried 6th February, 1826 Thomas Hinchman is living, I think, in Camden county, or close by.

No cross examination.

CALEB ROBERTS.

John Perkins, affirmed. Reside at Moorestown, Burlington county, New Jersey, aged about 48 years. Knew James Hinchman, of Burlington county; died about 22d February, 1825; left no children, he was unmarried; no widow. Had brothers, William and John; I think more than two. Had no particular knowledge of William; knew that he left a family, same as Mr. Roberts has testified to. Knew John Hinchman; don't know where he resided; died some years ago.

No cross examination.

JOHN PERKINS.

Wednesday, 23d January, 1850.

Abigail Albertson, residing in Gloucester county, near Haddonfield, widow, aged upwards of sixty-four years, being duly affirmed, saith: I was acquainted with John Scull; knew his wife; her name was Ann Scull—before marriage, Hinchman; William Hinchman was her father. John Scull and Ann, his wife, are both dead. They had six children, viz., Joseph, (alive,) Ann, (alive,) John, (alive,) Rebecca, (alive,) Ruth, (alive,) William, (alive.) These are all that grew up; Rebecca married Thomas Stiles; Ann married John Shannon, both living; Ruth married one Middleton—Ruth is alive. They all reside in the western country.

Cross examined by Mr. Newbold. I used to know Matthias Kay; he is dead. Knew nothing of his children.

her
ABIGAIL × ALBERTSON.
mark.

(Having left her spectacles at home.)

Joseph Hinchman, resides in Camden county, Delaware township, aged about sixty-four years, being duly affirmed, saith: I knew John Scull and Ann, his wife; both dead. John died about forty years ago; Ann died, I think, about eight years after her husband, leaving six children, the names, &c., having been correctly stated by the preceding witness; all the six were living about two months ago in the State of Ohio. Thomas K. Stiles living in Indiana at last advices, a few months ago. John Middleton, husband of Ruth, is deceased. The father of Ann Hinchman was William Hinchman; died fifty years ago. Ann Scull, late Hinchman, was my own aunt; William Hinchman married Ann Hartley, my grandmother.

No cross examination.

JOSEPH HINCHMAN.

Wednesday, February 6th.

John W. Horner, affirmed. I knew Harriet, wife of Dexter Stone; she is now dead; died about 1823; left two children, Lawson B. Stone and Thomas West Stone. Lawson B. Stone is a resident of New Orleans; Thomas West Stone died in the winter of 1842–'3; he died unmarried. I knew Thomas R. West, son of John and Elizabeth West; he died in 1828, by accident, on board of a steamboat; he was married to Matilda Booth, of Louisville. He left one child, Mary R. West; she is now the wife of George G. Steever, of New Orleans. Thomas R. West was about forty when he died.

Cross examined. I am first cousin to Mr. Stone and Mr. Steever, and nephew to Thomas R. West. Thomas West Stone was of age when he died.

JOHN W. HORNER.

Wednesday, February 20th.

Charles E. Cathrall, affirmed. I knew the late Matthias Kay—he was my uncle; he was the nephew of the testator, Matthias Aspden. He (i. e. Mr. Kay) died about 1816. After his death his children came to my father's house, to remain a while previous to their departure for the west. There was Eliza, married in the western country; think her name was Wilson; believe she is dead. The next is Ann, still living; married a man named Pardee, in the western country. The next was John; he is living. The next Miriam; she is dead; I believe married; don't know about her children. The next Dr. Charles Kay, living in East Fairfield, Columbiana county, Ohio. The others living are all in that neighborhood. Don't recollect a Rebecca. Seldom heard of them since they went away. Have had a letter lately from Dr. Charles Kay. Knew Mrs. Fowler, she was my aunt; sister of Matthias Kay. I should say she died about three or four years ago—since Matthias Aspden. I am not interested in this case. My mother is a niece of Mr. Aspden; she is still living.

My age is forty-eight, and a little more; son of Dr. Cathrall; live now in Blockley. Mrs. Worrell is my mother.

CHARLES E. CATHRALL.

Wednesday, March 6th.

Joshua Jones, living at Red Lion, Southampton township, Burlington county, New Jersey, aged about thirty-six years, being duly affirmed on the part of the descendants of Matthias Kay, saith:

I have a brother, Clayton Jones, living near Mount Holly, Warren county, Ohio. Married Miriam Kay, daughter of Matthias Kay. She died about the 7th of last August, 1849—some time last August. Knew of no other member of the Kay family. Heard that one of her sisters died a few days after she died. She married a man named Wilson. Don't remember her first name; I think it was Eliza.

No cross examination. JOSHUA JONES.

Wednesday, March 20th.

Charles Kay, affirmed. Reside in East Fairfield, Columbiana county, Ohio; physician by *trade;* aged about 37 years.

I am one of the children of Matthias Kay. The children of Matthias Kay were:

1. Eliza, married David Wilson; both dead. He died first; she died in 1849, leaving children.
2. Ann, married Pardee. She is living, he is dead.
3. John, living.
4. Rebecca, died single about 1827.
5. Miriam, married Clayton Jones. She died in August, 1849; left her husband.
6. Myself.

CHARLES KAY.

Wednesday, April 3d.

Richard S. Smith, of the city of Philadelphia, aged sixty years and upwards, being duly sworn, saith:

I was intimately acquainted with the late Henry Harrison, brother of Mrs. M'Murtrie. I can't recall the year in which he died; he left two children, both daughters. The oldest was Mary; the 2d, Dorothy, or Dolly. They are both dead. Dorothy died about a year after her father.

RICHARD S. SMITH.

Wednesday, April 10th.

Robert R. Bringhurst, sworn. I was sexton of Christ Church from 1824 to 1942. I produce the books containing entries of burials in the burying-ground of Christ Church and St. Peter's, corner of Fifth and Arch streets, commencing January, 1763, and coming down to 1831.

Under date of 9th May, 1823, is the following:

"A child of Henry Harrison."

I have made examination of the tombstones of the Harrison family in the same burial ground, and copied from a headstone there an inscription as follows:

"Dorothy Francis Harrison, died May 9, 1823, aged 2 years and 7 months."

This is the same family as Mr. George Harrison. This headstone was next to Mr. Henry Harrison's, the father of the child.

ROBERT R. BRINGHURST.

Wednesday, April 17th.

Michael Garson, sworn. I am clerk of Christ Church.

Produce register of burials in that church; (same book as produced and proved at the last meeting by Mr. Bringhurst.)

Under date of November 18th, 1826, it is thus entered, "Mary Bronson," which means a permit on that day for burial.

I produce copy of entry.

I find also in this book the following entry:

"1823, May 9, a child of Henry Harrison."

MICHAEL GARSON.

Martha Jane Everly, going on 77 years, affirmed.

My son, George M. Everly, married Mary Ann Church, daughter of Mary Kay, who married John Church. I was not present at the marriage. They always lived together as man and wife; she always called him her husband; they lived between two and three years in my house together as man and wife; this was after her mother's death; she was in the habit of recognising him as her husband. It was about ten or twelve years ago that they were married; I think they were married by a Mr. Smith, a Methodist minister; she always spoke of me as her mother-in-law.

M. J. EVERLY.

Charlotte Johnston, residing in South Second street, married woman, aged about 43 years, being affirmed, saith:

I think I knew George M. Everly; knew him as a neighbor. I always thought he was married; represented by his wife as such; her name was Mary Ann Church; have known her about seventeen years as a neighbor; she is dead; died about three years ago; can't fix the date. Always reported as man and wife; always lived together as such.

CHARLOTTE JOHNSTON.

Wednesday, May 1st.

David Dailey, sworn. I am the pastor of the Methodist Episcopal church at Kensington. Produce the book called the Church Record of the Kensington M. E. Church, beginning about 1830, and ending about 1846.

Page 149, entry of marriages:

"George M. Everly to Mary Ann Church." "July 21st, 1835."

The entry is in the handwriting of James Smith, the then pastor. I believe this to be his handwriting; I am familiar with his writing.

D. DAILEY.

George Emlen, junior, esq., affirmed. I am secretary and treasurer of the University of Pennsylvania.

I produce ledger of University from 1782 to May 15th, 1788.

P. 44, account of Joseph Mercier. House in Water street, between High and Mulberry, late estate of Matthias Aspden. Charged with rents, and credited with payments.

(Copy to be furnished by Mr. Newbold.)

(Copy of another entry to be produced.)

GEO. EMLEN, Jr.

William Brown, affirmed. Knew wife of Samuel Brown. He was my brother; her name was Mary Hartley; died more than twenty

years ago; I think twenty-five years ago. She left six children, viz: Edward, living; Mary, living, married to Silas Anthony; Elisha, living; Benjamin, living; Thomas Chalkley, died four or five years ago; Ezra, living: these were all. Samuel Brown, the father of the children, is living.

WILLIAM BROWN.

Saturday, May 4th, 11 a. m.

Edward Olmstead, esq., of the city of Philadelphia, counsellor-at-law, being duly sworn, deposes as follows:

I am under the necessity of going out of town on Monday next, and expect to be absent a week or ten days.

I am the solicitor of the mayor, aldermen, and citizens of Philadelphia. I produce certain papers and deeds from the place in which the deeds and other muniments of title of the real estate devised to the city by Mr. Girard are kept, excepting one paper, viz., copy of proclamation which I got from Harrisburg, for the purpose of using it in a suit respecting real estate.

(The following deeds are produced by the witness accordingly:)

(1.) 1745, November 30. Deed Christopher Clymer and others, trustees of general loan office, to Francis Bowes.

(Recorded G. W. R., No. 17, page 619, 26th July, 1827.)

(2.) 1750, May 23. Deed Thomas Lawrence and others, executors of Francis Bowes, to Matthias Aspden.

(Recorded book H., vol. 1, p. 142, October 26th, 1750.)

(3.) 1791, November 3d. Deed Trustees University of Pennsylvania to Joseph Mercier.

(Recorded D. B., No. 30, p. 140, 25th November, 1791.)

1823, December 10. Deed Louisa Mercier and others to Stephen Girard.

(Recorded D. B., J. H., No. 9, p. 452, 10th December, 1823.)

1791, December 4. Mortgage Joseph Mercier to Samuel Magaw.

(Recorded M. B., No. 7, p. 519, 28th December, 1791.)

(Satisfaction entered 6 December, 1823.)

1791, December 4. Bond same to same, and warrant of attorney attached.

Judgment entered in sup. ct. 28 November, 1793.

1780, July 27. Proclamation of sup. ex. council, requiring surrender of M. Aspden inter alios.

(Enrolled in rolls office in comm'h, book No. 1, page 76.)

(Certified by master of rolls originally, in 1785, and certified by the secretary of the commonwealth to be a true copy from the original.)

1782, January 10. Minutes of supreme executive council from vol. 5, pp. 9, 10, and pp. 69, 70, certified by deputy secretary of commonwealth, 25th November, 1845.

No cross examination.

EDW. OLMSTEAD.

Wednesday, May 8th.

Nathan Kite, affirmed. I am clerk of the monthly meeting of Friends of Philadelphia; meet in Mulberry street; as clerk have charge of papers and book; I produce the original order for the interment of Keziah Vickers, "aged about 64 years."

Dated "Phil., 3d mo. 22d, 1824."

(Signed) CALEB PEIRCE,
JOS. CRUKSHANKS.

"Died last night."

Know handwriting of both; this is their handwriting respectively.
(Endorsed) "In Zane street near 7th, place of residence."
No cross examination.

NATHAN KITE.

William T. Pearce, aged about 58 years, residing in Providence, Delaware county, Pennsylvania, being duly affirmed, saith:

I am acquainted with the farm now in Delaware county, formerly belonging to Mr. Aspden; have known it for forty years and upwards; I married the youngest daughter of Robert Mendenhall, who owned the whole of it; I had, as one of the owners, a deed which I here produce, to wit, from commonwealth of Pennsylvania to Edward Bartholomew, dated 25th August, 1786, signed Charles Biddle, vice president of the supreme executive council, enrolled in rolls office, in rolls book, No. 6, p. 437; for a tract of one hundred and seventy-two acres in (then) Chester county.

I recognise this deed, which was among the papers, viz:

28th February, 1796. Edward Bartholomew to Robert Mendenhall for same tract.

(Recorded in Delaware county, D. B. D., p. 104. 29th January, 1798.)

(There were four daughters.)

Also deed—

27th April, 1800. R. Mendenhall to George Hunter for 100 acres, part of this tract.

(Recorded in Delaware county, D. B. L., p. 624.)

Also deed—

1st April, 1837. George M. Hunter and others to William Hunter for the same 100 acres.

(Recorded in Delaware county, U., p. 94. 7th June, 1837.)

Robert Mendenhall and others, in succession, were in possession of this property during the forty years I spoke of.

I never heard of any claim by Matthias Aspden during that time, forty years. William Hunter and William Frazer Green own and occupy it all, except perhaps 5 acres, which belongs to Samuel Hodges, which *was* sold by R. Mendenhall to some person by R. Mendenhall to some person under whom Hodges holds.

Cross examined by Mr. Tilghman. Never knew nor heard tell of Matthias Aspden till I saw his name in the old deeds.

WILLIAM J. PEARCE.

William Hunter, of Newton township, Delaware county, Pa., aged about 66 years, being duly affirmed, says:

I am the owner of one hundred acres of the farm just spoken of.

The deeds, viz:

(Mendenhall to George Hunter; George M. Hunter and others to William Hunter, testified to by Mr. Pearce;)

are from among my title papers of this farm; have known the property for sixty years and upwards; it has been held under the same title during that time. Never knew of any claim made by Matthias Aspden for this property, or any part of it, during that time; the deed to me is from the heirs of George Hunter; I know that they were heirs, and that he died intestate.

Cross examined by William M. Tilghman, esq. I never saw Matthias Aspden in my life; never knew him, nor of him, except seeing his name in the deed.

WM. HUNTER.

William Frazer Green, of Newton township, Delaware county, aged about 32 years, being duly affirmed, saith:

I own about seventy acres of this farm; got it from the Mendenhalls, viz., the heirs of Robert Mendenhall; reside on it; have had it for one year only; did not bring my deed with me; it is at the recorder's office.

WILLIAM FRAZER GREEN.

DEPOSITIONS TAKEN UNDER COMMISSIONS.

1. *Commission to New Lisbon, Ohio.*

In the circuit court of the United States, in and for the eastern district of Pennsylvania, in the third circuit, of October session, 1849.

No. 1. *April sessions*, 1828. *In equity.*

SAMUEL PACKER
vs.
HENRY NIXON, administrator.

The President of the United States, to William D. Ewing and R. D. Hartshorne, esquires, of New Lisbon, Ohio, or to either of them.

Know ye, that, in confidence of your prudence and integrity, we have given unto you, and by these presents do give unto you, or to either of you, full power and authority, in pursuance of a rule lately made in the circuit court of the United States, in and for the eastern district of Pennsylvania, in the third circuit, in a certain action in equity

therein depending, wherein the said Samuel Packer is the complainant, and the said Henry Nixon, administrator, &c., of Matthias Aspden, deceased, is the respondent, to call before you, at a certain day and place, by you for that purpose to be appointed, all and every person and persons who may be named to you by the said as witnesses in the said action, and then and there to examine them, on their respective oath or affirmation, on certain interrogatories, hereunto annexed, touching the premises, and to reduce their testimony to writing; and when you shall have so done, you are to send the same to the said circuit court, closed up, and under your seals, plainly and distinctly set, together with this writ.

Witness the honorable R. B. Taney, chief justice of the supreme court of the United States, at Philadelphia, this twenty-second [L. S.] day of March, A. D. 1850, and in the seventy-fourth year of the independence of the said United States.

GEORGE PLITT,
Clerk of the circuit court.

The execution of this commission appears in a certain schedule hereunto annexed. April 16, A. D. 1850.

R. D. HARTSHORN,
Commissioner.

In the circuit court of the United States, in and for the eastern district of Pennsylvania.

No. 1. *April sessions*, 1828. *In equity.*

PACKER
vs.
NIXON, administrator, &c.

Interrogatories to be exhibited to witnesses to be produced, sworn or affirmed, and examined, on behalf of Edward Hartley, James Peggs, Daniel Peggs, John Wilson, Edward Wilson, Alexander Lawrence and Agnes, his wife, (late Agnes Wilson,) John Adams, Thomas Adams, Jacob Adams, Francis Adams, Elizabeth M'Connaughey, (late Elizabeth Adams,) Elias Maple and Maria B., his wife, (late Maria B. Adams,) Peter Wilson and Susannah Wilson, his wife, (late Susannah Peggs,) and Margaret Adams, under a commission to be issued out of the said circuit court of the United States to the State of Ohio.

Interrogatory 1. Do you know who were the children of Roger Hartley, of Pennsylvania, and Rebecca Hartley, his wife; which said Rebecca Hartley married (after the decease of the said Roger) Matthias Aspden? If aye, then state particularly how many children she had by the said Roger Hartley, and what were their names.

Interrogatory 2. If you state that one of the children of Roger Hartley and the said Rebecca Hartley was named Roger Hartley, then state, if you know, whether the said Roger Hartley, the second, married,

and if so, whom he married; and state, if you know, whether he had any children, and if so, how many, and what were their names, and how many are dead, and how many are living, and where do such as are living now reside? Is the said Roger Hartley the second living or dead? If dead, when and where did he die?

Interrogatory 3. Do you know Edward Hartley, who lives in Columbiana county, Ohio? If so, state, if you know, whose son he is, and whose son his father was, if you know.

Interrogatory 4. Do you know who Bersheba Adams was? If so, state whether she was a married woman, and if she was, state what her maiden name was before she was married, and state who her father was. Whom did she marry? Had she any children? If so, how many, and what were their names? State whether she and her husband are now living or dead. If she had children, how many are living and how many are dead? And where do those who are living now reside? And if any of them are married, what are their husbands' names?

Interrogatory 5. Do you know who Martha Peggs was? If so, state whether she was a married woman, and if so, what her maiden name was before she was married. And state who her father was. If married, whom did she marry? Had she any children? If aye, how many had she, and what were their names? State whether she and her husband are now living or dead. If dead, when did they, or either of them, die? If she had children, how many are living and how many are dead? Where do those who are living now reside? If any of them are married, what are their husbands' names? If you state that some of the children of Martha Peggs are deceased, then state, if you know, whether such deceased children of Martha Peggs left children, and if so, what are their names, and where do they now reside, if living?

Interrogatory 6. State all that you know in reference to the issue of Roger Hartley and Rebecca Hartley, who afterwards married Matthias Aspden.

Interrogatory 7. State all that you know in reference to the issue of Roger Hartley, who was the son of Roger Hartley and Rebecca Hartley.

Interrogatory 8. State all that you know in reference to the issue of Bersheba Adams and Thomas Adams.

Interrogatory 9. State all that you know in reference to the issue of Martha Peggs and Peter Peggs, and the issue of their issue, if any.

Interrogatory 10. State all that you know, from general reputation, in reference to the issue of the persons mentioned in interrogatories 6, 7, 8, and 9.

Interrogatory 11. State all that you know in reference to the pedigree of the persons named in the caption of these interrogatories, or of any or either of them, beginning with Edward Hartley and terminating with Margaret Adams.

M. RUSSELL THAYER,
Solicitor for the petitioners named in the caption of the above interrogatories.

1850, March 22. A true copy from the original filed.

GEORGE PLITT,
Clerk of the circuit court.

Depositions of witnesses produced, sworn, and examined on the 15th and 16th days of April, in the year of our Lord 1850, at the office of William D. Ewing, in the town of New Lisbon, in Columbiana county, and State of Ohio, by virtue of a commission issuing from the circuit court of the United States, for the eastern district of Pennsylvania, to William D. Ewing and R. D. Hartshorn, or either of them, directed for the examination of witnesses in a certain cause depending in said court, wherein Samuel Packer is plaintiff, and Henry Nixon, administrator, &c., is defendant, and which commission was issued 22d March, 1850.

These witnesses being produced at the said office of William D. Ewing, R. D. Hartshorn, one of said commissioners, administered to each and every one of said witnesses hereinafter named, an oath, in the established and that form binding on the consciences of said witnesses, to make true answers to all such questions as shall be asked, upon the interrogatories annexed to the commission, without favor or affection to either party, and therein to speak the truth, the whole truth, and nothing but the truth. Whereupon the depositions were severally taken as follows:

Edward Hartley, of the county of Columbiana, and State of Ohio, aged 69 years on the 21st day of July, 1850, being produced, sworn, and examined on behalf of James Peggs, Daniel Peggs, John Wilson, Edward Wilson, Alexander Lawrence and Agnes, his wife, (late Agnes Wilson,) John Adams, Thomas Adams, Jacob Adams, Francis Adams, Elizabeth M'Connaughey, (late Elizabeth Adams,) Elias Maple and Maria B., his wife, (late Maria B. Adams,) Peter Wilson and Susanna, his wife, (late Susanna Peggs,) and Margaret Adams, deposeth as follows:

1. To the first interrogatory on the part of the defendants, forwarded with said commission, he answers as follows: I do know who were the children of Roger Hartley, of Pennsylvania, and Rebecca Hartley, his wife, which said Rebecca Hartley was married, after the decease of her husband, Roger Hartley, to Matthias Aspden. She, the said Rebecca Hartley, had four children by her first husband, Roger Hartley, namely, Benjamin Hartley, Bersheba Hartley, (afterwards Bersheba Zane,) Roger Hartley, and James Hartley. She had, after her marriage with the said Matthias Aspden, only one child, namely, Matthias Aspden, the testator. These five were all the children she, the said Rebecca Hartley, ever had, to the best of my knowledge. James died without issue.

2. To the second interrogatory on the part of the same, he answers as follows: Roger Hartley, (the second,) son of the Roger Hartley married to Rebecca Hartley above named, was twice married. He was married the first time to a woman of the name of Seabern, by whom he

had the following children, namely, Benjamin Hartley, Jannet, or Jane Hartley, Roger Hartley, James Hartley, John Hartley, Peter Hartley, Thomas Hartley, and Rebecca Hartley, (afterwards married to Mahlon Doan.) The said Roger Hartley, the second, was married a second time to Dorothy Riley, by whom he had the following children, namely, Edward Hartley, (this deponent,) Martha Hartley, (afterwards Martha Peggs,) Bersheba Hartley, (afterwards Bersheba Adams,) and Henry Hartley. The first wife of the said Roger Hartley deceased some time previous to his second marriage. His second wife is since dead, and the said Roger Hartley (the second) is also dead, the above being his only children; of whom I will now give as full an account as my knowledge will enable me.

My father, Roger Hartley, the second, died in Bucks county, Pennsylvania, about forty-eight years ago. He died of yellow fever at the house of his son, Roger Hartley.

Benjamin Hartley, first above named, child of Roger Hartley (the second,) died near Brownsville, Pennsylvania, about the year 1830, leaving a family of children.

Jannet or Jane Hartley died single, and without issue, in Canada, some years previous to 1825.

Roger Hartley (the third) is living in Washington county, Pennsylvania, about five miles from Brownsville.

James Hartley died in Greene county, Pennsylvania, leaving a family of children, between twenty and thirty years ago.

John Hartley died near Smithfield, Jefferson county, Ohio, about the year 1838 or 1839, leaving a family of children.

Thomas Hartley died near Brownsville, in Washington county, Pennsylvania, about the year 1810, leaving a family of children.

Peter Hartley died at Washington county, Pennsylvania, about the year 1800. Whether he left any children I don't know. I have understood he left two children.

Rebecca Hartley (married to Mahlon Doan) lived in Canada, and had a family. I don't know whether she is living or dead.

Edward Hartley (the deponent) resides in Columbiana county, Ohio, aged sixty-nine years on the twenty-first day of July next (1850.)

Martha Hartley (married to Peter Peggs) died in Fayette county, Pennsylvania about the year 1823 (on the 27th of March, 1823, according to the best information I have,) leaving a number of children.

Bersheba Hartley (married to Thomas Adams) died in Jefferson county, Ohio, about the month of June, 1838, leaving a family of children.

Henry Hartley died in the State of Virginia when he was about two or three years old, more than fifty years ago.

3. To the third interrogatory on the part of the same he answers as follows: I am Edward Hartley, who live in Columbiana county, Ohio, and am one of the sons of Roger Hartley (the second.) My father was son of Roger Hartley, the first, who married Rebecca Hartley, who af-

terwards married Matthias Aspden, the father of Matthias Aspden, the testator.

4. To the fourth interrogatory on the part of the same, he answers as follows: I knew Bersheba Adams; she was my sister; her maiden name was Bersheba Hartley; she was married to Thomas Adams, who is still living in Jefferson county, Ohio. Bersheba Adams died about twelve years ago, leaving children, of whom part are still living. Those still living are Elizabeth Adams, (married to Adams M'Connaughey, of Jefferson county, Ohio,) Margaret Adams, residing now in Columbiana county, Ohio; John Adams, residing in Jefferson county, Ohio; Thomas Adams, residing in Columbiana county, Ohio; Francis Adams, residing in Carroll county, Ohio; Barbara Maple (married to Elias Maple, of Jefferson county, Ohio;) Jacob Adams, residing in Columbiana county, Ohio; Peter Adams, residing in Stark county, Ohio; and Louisa M'Millan, wife of Thomas M'Millan, residing in Carroll county, Ohio.

Those children of said Bersheba Adams who have deceased, are as follows: Bersheba Adams, Agnes Adams, Bersheba (the second) Adams, and Martin Adams, who all died without issue.

5. To the fifth interrogatory on the part of the same, he answers as follows: I know Martha Peggs. She was my sister. Her maiden name was Martha Hartley. She was married to Peter Peggs, who died in Fayette county, Pennsylvania. She died there also, in the year 1823. Her father was Roger Hartley (the second.) She left children by her marriage with said Peter Peggs, as follows, three of whom died since her death, and six are yet living, namely: Susannah Peggs (married to Peter Wilson, residing in Jefferson county, Ohio;) Dorothy Peggs (married to Uriah Woods, residing in Fayette county, Pennsylvania;) Martha Peggs (married to William Jacobs, residing in Fayette county, Pennsylvania;) Peter Peggs, residing in Fayette county, Pennsylvania, as I am informed; Daniel Peggs and James Peggs, both residing in Jefferson county, Ohio. Those who deceased are Sarah, Elizabeth, and Edward. Elizabeth Peggs (married to William Wilson) left four children, namely, Edward, Martha, Agnes, and John, all living in Jefferson county, Ohio, except Martha, who resides in Fayette county, Pennsylvania, and is married to Benjamin Jacobs; I don't know that Sarah and Edward had any issue; Agnes Wilson is married to Alexander Lawrence.

6. To the sixth interrogatory on the part of the same he answers as follows: I know that the issue of Roger Hartley and Rebecca Hartley were four children, as stated by me before, Benjamin Hartley, Roger Hartley, James Hartley, and Bersheba Hartley, (who married a man by the name of Zane.) These were all the children they had.

Said Rebecca Hartley, after the decease of said Roger Hartley, and after her marriage with Matthias Aspden, had another son, Matthias Aspden, the testator.

7. To the seventh interrogatory on the part of the same he answers as follows: The issue of Roger Hartley, who was the son of Roger

Hartley and Rebecca Hartley, were, as stated above, Benjamin Hartley, Jannet or Jane Hartley, Roger Hartley, James Hartley, John Hartley, Peter Hartley, Thomas Hartley, and Rebecca Hartley, (married to Mahlon Doan,) Edward Hartley, (this deponent,) Martha Hartley, (afterwards Martha Peggs,) Bersheba Hartley, (afterwards Bersheba Adams,) and Henry Hartley.

8. To the eighth interrogatory on the part of the same he says as follows: Said Bersheba Adams was my sister. I lived near neighbors to her and her husband for about thirty years or upwards. Their issue are as stated above in answer to the fourth interrogatory; and are, Elizabeth Adams, (married to Adams McConnaughey,) Margaret Adams, John Adams, Thomas Adams, Francis Adams, Barbara Adams, (married to Elias Maple,) Jacob Adams, Peter Adams, and Louisa Adams, (married to Thomas M'Millan,) Bersheba Adams, Agnes Adams, Bersheba (the second) Adams, and Martin Adams.

9. To the ninth interrogatory on the part of the same he answers as follows: Martha Peggs was my sister. Their issue were Susannah Peggs, (married to Peter Wilson,) Dorothy Peggs, (married to Uriah Woods,) Martha Peggs, (married to William Jacobs,) Peter Peggs, Daniel Peggs, James Peggs, Sarah Peggs, and Elizabeth Peggs, and Edward Peggs. Sarah Peggs and Edward Peggs died, as far as I know, without issue. Elizabeth (married to William Wilson) died, leaving issue Edward Wilson, Martha Wilson, (married to Benjamin Jacobs,) Agnes Wilson, and John Wilson.

10. To the tenth interrogatory on the part of the same he answers as follows: The general reputation in relation to the issue of the persons named in interrogatories 6, 7, 8, and 9, fully sustains me in the account which I have given you in answer to those interrogatories, namely, that Roger Hartley, the elder, was married to Rebecca Hartley; that they together had issue, Benjamin, James, Roger, and Bersheba Hartley, (who afterwards married a Mr. Zane;) that said Rebecca Hartley's husband died, after which she married the father of Matthias Aspden, the testator, of which last marriage Matthias Aspden, the testator, is the only issue; that James Hartley died without issue; that Benjamin Hartley had two children, concerning whom he has no correct information; that Bersheba Zane also had children, but how many, or where they are, I don't know. I saw two daughters, but don't recollect their names. Roger Hartley, the other son, was my father, and always reputed to be the half brother of Matthias Aspden, the testator. He was also the father of Martha Peggs and Bersheba Adams.

11. To the eleventh interrogatory on the part of the same he answers as follows: I can say nothing additional to what I have stated in answer to the former interrogatories. Edward Hartley was the son of Roger Hartley, (the second,) who was the son of Roger and Rebecca Hartley. James Peggs, Daniel Peggs, Susannah Wilson, (wife of Peter Wilson,) Dorothy Peggs, (married to Uriah Woods,) Martha

Peggs, (married to William Jacobs,) Sarah Peggs, Edward Peggs, Elizabeth Peggs, and Peter Peggs, were the only children of said Martha Peggs, who was daughter of Roger Hartley, (the second,) who was the son of Roger Hartley (the first) and Rebecca Hartley.

Agnes Lawrence, (late Agnes Wilson,) Edward Wilson, Martha Wilson, and John Wilson, are the children of Elizabeth Wilson, (late Elizabeth Peggs,) daughter of said Martha Peggs, who was a daughter of Roger Hartley, (the second,) who was a son of Roger and Rebecca Hartley.

John Adams, Thomas Adams, Jacob Adams, Francis Adams, Elizabeth M'Connaughy, (late Elizabeth Adams,) Maria B. Maple, (late Maria B. Adams,) Margaret Adams, Peter Adams, and Louisa McMillan, (late Louisa Adams,) are the children of Bersheba Adams, who was daughter of Roger Hartley, (the second,) who was son of Roger and Rebecca Hartley.

And further this deponent saith not.

his
EDWARD ✕ HARTLEY.
mark.

Attest:

R. D. HARTSHORN, *Commissioner*.

Martin Adams, of the county of Jefferson and State of Ohio, about seventy years of age, being produced, sworn, and examined, on behalf of Edward Hartley, James Peggs, Daniel Peggs, John Wilson, Edward Wilson, Alexander Lawrence and Agnes, his wife, (late Agnes Wilson,) John Adams, Thomas Adams, Jacob Adams, Francis Adams, Elizabeth Adams, now Elizabeth M'Connaughy, Elias Maple and Maria B. Maple, his wife, (late Maria B. Adams,) Peter Wilson and Susannah, his wife, (late Susannah Peggs,) and Margaret Adams, deposeth as follows:

1. To the first interrogatory on the part of said defendants, forwarded with said commission, he answers as follows: I can say nothing of my own knowledge.

2. To the second interrogatory on the part of the same he answers as follows: I only know from general reputation that Roger Hartley (the second) was the name of one of the sons of Roger and Rebecca Hartley; that Roger Hartley was married to Dorothy Hartley, by whom he had issue Edward Hartley, residing in Columbiana county, Ohio; Martha Hartley, (afterwards Martha Peggs,) and Bersheba Hartley, (afterwards Bersheba Adams.) Martha Peggs and Bersheba Adams are both dead.

Roger Hartley (the second) is dead. He is said to have deceased in Bucks county, Pennsylvania, forty-six or [forty]-seven years ago. I knew Benjamin Hartley, Roger Hartley, James Hartley, John Hartley, Peter Hartley, and Thomas Hartley, who were reputed to be the children of Roger Hartley, (the second,) by a former marriage. Of these, all are dead except Roger Hartley, who, I understand, is still living.

Benjamin Hartley died near Brownsville, Washington county, Pennsylvania, about thirteen years ago. Peter and Thomas Hartley died some length of time before Benjamin, near the same place, in Washington county, Pennsylvania. James died in Greene county, Pennsylvania, how long since, I cannot say. John Hartley died in Jefferson county, Ohio, from ten to twelve years ago. With the daughters I was not acquainted, except with Martha and Bersheba. Roger Hartley is said to be living in Washington county, Pennsylvania, yet.

3. To the third interrogatory on the part of the same he answers as follows: I know Edward Hartley, who lives in Columbiana county, Ohio; I only know from reputation that he is the son of Roger Hartley, (the second,) who was reputed to be the son of Roger and Rebecca Hartley; when I first saw Edward Hartley he was about twenty-one years of age, and Roger Hartley was then reputed to be his father; Edward was also reputed to be the brother of Benjamin Hartley and others above named; he is now near seventy years of age.

4. To the fourth interrogatory on the part of the same he answers as follows: I knew Bersheba Adams; she was married to Thomas Adams; her maiden name was Bersheba Hartley, and her father was always understood to be Roger Hartley, (the second,) of Pennsylvania; she had children, thirteen, nine of whom are still living; their names were Elizabeth, Margaret, John, Thomas, Francis, Jacob, Barbara, Bersheba, Agnes, Bersheba, (second,) Martin, Louisa, and Peter Adams. Bersheba Adams is now dead; her husband, Thomas Adams, is yet living; nine of her children are living, and four are dead; those who are dead are, Agnes Adams, (who was married to Joseph Russell,) Bersheba Adams, (married to Jonathan Hartley,) Martin Adams, and Bersheba Adams, (second.) Of those who are living, Elizabeth (now Elizabeth M'Connaughy,) resides in Jefferson county, Ohio; Margaret, Thomas, and Jacob Adams, reside in Columbiana county, Ohio; Francis and Louisa Adams, (now Louisa M'Millan,) reside in Carroll county, Ohio; John and Barbara Adams, (now Barbara Maple,) reside in Jefferson county, Ohio; and Peter Adams resides in Stark county, Ohio; Elizabeth Adams is married to Adams M'Connaughy, Barbara Adams is married to Elias Maple, and Louisa Adams is married to Thomas M'Millan.

5. To the fifth interrogatory on the part of the same he answers as follows: I knew Martha Peggs; she was a married woman; her maiden name was Martha Hartley; her father was reputed to be Roger Hartley, (the second,) of Pennsylvania; she had children, but I don't know that I can name them all; I know James, Peter, Daniel, Elizabeth, Susannah, and Martha Peggs, who were her children. She and her husband are both dead; I don't know exactly when either of them died; she died first. I suppose, from what I have heard, that she died as early as 1823. There are five of her children whom I know that are living, and one who is dead, namely, Elizabeth Peggs, (married to William Wilson.)

Of those who are living, Daniel, James, and Susannah Peggs, (married to Peter Wilson,) now reside in Jefferson county, Ohio. I under-

stand that Martha Peggs (now married to William Jacobs) resides in Fayette county, Pennsylvania; I don't know where Peter Peggs resides; he is also said to reside in Fayette county, Pennsylvania; of those that are married I have given their husbands' names above.

Elizabeth Wilson (daughter of Martha Peggs) has deceased, leaving, I believe, four children, of whom I have seen three, namely, Edward, John, and Agnes Wilson, (now married to Alexander Lawrence,) the other, Martha Wilson, (now said to be married to Benjamin Jacobs, I have probably seen also, but can't be certain.

Edward, John, and Agnes Wilson (now Agnes Lawrence) now reside in Jefferson county, Ohio, as I believe.

6. To the sixth interrogatory on the part of the same, he answers as follows: As to the issue of Roger Hartley and Rebecca Hartley I know nothing, only by reputation.

7. To the seventh interrogatory on the part of the same he answers as follows: I know Benjamin Hartley, Roger Hartley, James Hartley, John Hartley, Peter Hartley, and Thomas Hartley, who were reputed to be the issue of Roger Hartley (the second) by his first wife; and Edward Hartley, Martha Hartley, (afterwards Martha Peggs,) and Bersheba Hartley, afterwards Bersheba Adams,) who were reputed to be the issue of Roger Hartley (the second) by his second marriage with Dorothy Hartley, (formerly Dorothy Riley.)

I understood he had other children besides those, with whom I am not acquainted.

8. To the eighth interrogatory on the part of the same he answers as follows: Bersheba Adams and Thomas Adams had the following issue, namely, Elizabeth Adams, (afterwards Elizabeth McConnaughey,) Margaret Adams, John Adams, Thomas Adams, Francis Adams, Jacob Adams, Barbara Adams, (married to Elias Maple,) Bersheba Adams, Agnes Adams, (married to Joseph Russell,) Bersheba Adams, (second,) (married to Jonathan Hartley,) Martin Adams, Louisa Adams, (married to Thomas McMillan, and Peter Adams.

9. To the ninth interrogatory on the part of the same he answers as follows: Martha Peggs and Peter Peggs had issue, with whom I am acquainted, and have seen as follows, namely, Elizabeth Peggs, (married to William Wilson,) Daniel Peggs, James Peggs, and Susannah Peggs, (married to Peter Wilson,) Martha Peggs, (married to William Jacobs,) and Peter Peggs.

The issue of Elizabeth Wilson, deceased, (late Elizabeth Peggs,) are, Edward Wilson, John Wilson, Agnes Wilson, (married to Alexander Lawrence,) and Martha Wilson, (now said to be married to Benjamin Jacobs.)

Martha and Peter Peggs, I am informed, had other issue, with whom I am not acquainted. I have only heard of one other living child; her name is said to be Dorothy, and is said to be married to Uriah Woods. There are said to have been two others dead, besides Elizabeth, but left no issue.

10. To the tenth interrogatory on the part of the same he answers

as follows: I know, from general reputation, that Benjamin Hartley, Bersheba Hartley, (afterwards Bersheba Zane,) Roger Hartley, (the second,) and James Hartley, were the issue of Roger and Rebecca Hartley; that Matthias Aspden, (the testator,) was the issue of Rebecca Hartley, after the decease of Roger Hartley, by a second marriage with Matthias Aspden, father of Matthias Aspden, (the testator;) and that, as to said James Hartley, he is said to have died without issue; that as to Bersheba Zane and Benjamin Hartley, children of Rebecca Hartley and Roger Hartley, (the first,) I have heard both had issue, but of their names and residences I know nothing certain; and that, as to Roger Hartley, son of Rebecca and Roger Hartley, (the first,) he had the following issue, namely, Benjamin Hartley, Roger Hartley, James Hartley, John Hartley, Peter Hartley, Jannet or Jane Hartley, Rebecca Hartley, (married to Mahlon Doan,) Thomas Hartley, Edward Hartley, Martha Hartley, (married to Peter Peggs,) and Bersheba Hartley, (married to Thomas Adams.)

The issue of Bersheba Adams and Thomas Adams were John Adams, Thomas Adams, Jacob Adams, Francis Adams, Elizabeth Adams, (now Elizabeth McConnaughey,) Maria B. Maple, (late Maria B. Adams,) Margaret Adams, Peter Adams, and Louisa McMillin, (late Louisa Adams,) Agnes Adams, (afterwards Agnes Russell,) Bersheba Adams, Martin Adams, and Bersheba Adams, (the second,) (afterwards Bersheba Hartley.)

The issue of Martha Peggs and Peter Peggs are, James Peggs, Peter Peggs, Daniel Peggs, Elizabeth Peggs, (married to William Wilson,) Susannah Peggs, (married to Peter Wilson,) Martha Peggs, (married to William Jacobs,) and Dorothy Peggs, (married to Uriah Woods.)

The issue of Elizabeth Wilson are, Edward Wilson, John Wilson, Agnes Wilson, (married to Alexander Lawrence,) and Martha Wilson, (married to Benjamin Jacobs.)

11. To the eleventh interrogatory on the part of the same he answers as follows: Edward Hartley was reputed to be the son of Roger Hartley, (the second,) who was reputed to be the son of Roger and Rebecca Hartley.

James Peggs, Daniel Peggs, Susannah Peggs, (wife of Peter Wilson,) Dorothy Peggs, (married to Uriah Woods,) Martha Peggs, (married to William Jacobs,) Sarah Peggs, Edward Peggs, Elizabeth Peggs, and Peter Peggs, were children of Martha Peggs, who was the daughter of Roger Hartley, (the second,) who was reputed to be the son of Roger Hartley and Rebecca Hartley.

Agnes Wilson, (married to Alexander Lawrence,) Edward Wilson, Martha Wilson, and John Wilson, are the issue of Elizabeth Wilson, (late Elizabeth Peggs,) who was daughter of Martha Peggs, who was daughter, by reputation, of Roger Hartley (the second,) who was son, by reputation, of Roger Hartley (the first,) and Rebecca Hartley.

John Adams, Thomas Adams, Jacob Adams, Francis Adams, Elizabeth Adams, (now Elizabeth M'Connaughey,) Maria B. Adams, (now Maria B. Maple,) Margaret Adams, Peter Adams, and Louisa

M'Millan, (married to Thomas M'Millan,) are the living children of Bersheba Adams, who was the daughter of Roger Hartley, (the second,) who was reputed to be the son of Roger Hartley and Rebecca Hartley.

And further this deponent saith not.

MARTIN ADAMS.

Attest: R. D. HARTSHORN, *Comm'r*.

I hereby certify, that, in conformity to law, on the 15th and 16th days of April, 1850, at the office of William D. Ewing, esq., in New Lisbon, Columbiana county, Ohio, Edward Hartley, of Columbiana county, Ohio, and Martin Adams, esq., of Jefferson county, Ohio, were produced before me, as witnesses in the suit of Samuel Packer against Henry Nixon, administrator, &c., No. 1, April sessions, 1828, pending in equity in the circuit court of the United States, in and for the eastern district of Pennsylvania; and by virtue of the annexed commission issuing out of said court, directed to William D. Ewing and R. D. Hartshorn, or either of them, I proceeded to execute said commission; and thereupon the said Edward Hartley, and the said Martin Adams, esq., were by me severally sworn in said case, according to law, and the custom of the country, and in the form binding on their consciences, to make true answers to all such questions as should be asked upon the interrogatories annexed to the commission aforesaid, without favor or affection to either party, and therein to speak the truth, the whole truth, and nothing but the truth. Whereupon said interrogatories were duly read to them, to which they gave their answers as above set down, which were reduced to writing by me, as they are above set forth; and the answers of each witness to be, at the end of his examination, signed by him, and attested by me, and also attested by me at the foot of each page thereof. Said Edward Hartley attempted to subscribe his name to his examination, but did it so poorly as to be scarcely legible; whereupon it was written by me thereto, and he made his mark thereto.

In testimony whereof, and that said depositions were duly taken, subscribed, attached to the commission, and sealed up by me, I hereto set my hand and seal, this 16th day of April, A. D. 1850.

R. D. HARTSHORN, [L. S.]
Commissioner.

Commissioner's fees, $10.

2. *Commission to New Lisbon, Ohio.*

In the circuit court of the United States, in and for the eastern district of Pennsylvania, in the third circuit, of October session, 1849.

SAMUEL PACKER
vs.
JOSEPH TROTTER, administrator de bonis non cum testamento annexo of Matthias Aspden, deceased.

No. 1. April session, 1828, in equity.

The President of the United States, to Lyman W. Potter, esquire, of New Lisbon, Columbiana county, Ohio.

Know ye, that, in confidence of your prudence and integrity, we have given unto you, and by these presents do give unto you, Lyman W. Potter, esquire, full power and authority, in pursuance of a rule lately made in the circuit court of the United States, in and for the eastern district of Pennsylvania, in the third circuit, in a certain action in equity therein depending, wherein the said Samuel Packer is the complainant, and the said Joseph Trotter, administrator, &c., of the said Matthias Aspden, deceased, is the respondent, to call before you at a certain day and place, by you for that purpose to be appointed, all and every person and persons who may be named to you by the said as witnesses in the said action, and then and there to examine them, on their respective oath or affirmation, on certain interrogatories, hereunto annexed, touching the premises, and to reduce their testimony to writing; and when you shall have so done, you are to send the same to the said circuit court, closed up, and under your seals, plainly and distinctly set, together with this writ.

Witness the honorable Roger B. Taney, chief justice of the Supreme Court of the United States, at Philadelphia, this twenty-third [L. S.] day of March, A. D. 1850, and in the seventy-fourth year of the independence of the said United States.

GEORGE PLITT,
Clerk of circuit court.

In the circuit court of the United States, in and for the eastern district of Pennsylvania.

SAMUEL PACKER
vs.
JOSEPH TROTTER, administrator de bonis non cum testamento annexo of Matthias Aspden, deceased.

No. 1. April session, 1828, in equity.

Interrogatories to be administered to witnesses, to be produced, sworn or affirmed, and examined, on behalf of Peter Pegg, Daniel Pegg, Sarah Pegg, Uriah Wood and Dorathea Wood (late Dorathea Pegg) his wife; William Jacobs and Martha Jacobs (late Martha Pegg) his wife; Peter Wilson and Susannah Wilson (late Susannah Pegg) his wife; and Alfred Howell, administrator of the estate and effects of Elizabeth Wilson, deceased:

First. Do you know the parties, complainants and defendants, in the title of these interrogatories named, or either and which of them; and how long have you known them, or either of them?

Second. Did you know Roger Hartley, a half brother of Matthias Aspden, late of Philadelphia, deceased? Do you know, or have you

heard, who were all the children of said Roger Hartley? State all their names particularly; whether they are living or dead; and state, as nearly as you can, the time of the decease of any of them.

Third. If, in answer to the preceding interrogatory, that one of the children of said Roger Hartley was named James, state whether said James is living or dead; if dead, where did he reside prior to his decease; when did he die; and what children or descendants did he leave to survive him?

Fourth. If, in answer to the preceding interrogatory, you should say that one of the children of said James Hartley was named Martha, state to whom was she married; is she living or dead; if dead, when did she die; where did she reside prior to her decease; and what children or descendants did she leave to survive her? State all you know of the matter inquired of.

Fifth. Do you know any other matter or thing favorable to the parties, or either of them? If yea, state the same fully as though particularly interrogated in relation thereto.

FALLON,
For Peter Pegg and others.

1850, March 23. A true copy from the original filed.
GEORGE PLITT,
Clerk C. C.

The execution of this commission appears in the schedule and testimony hereunto annexed.
Attest: LYMAN W. POTTER,
Commissioner.

Circuit court of the United States, in and for the eastern circuit of Pennsylvania. No. 1. April session, 1828. In equity.

SAMUEL PACKER
vs.
JOSEPH TROTTER, administrator de bonis non, &c., of Matthias Aspden, deceased.

The depositions of witnesses taken, who were produced, sworn, and examined before me on the 16th day of April, 1850, at the office of William D. Ewing, in the town of New Lisbon, in Columbiana county, (said time and place being by me appointed for that purpose,) by virtue of a commission issuing from the circuit court of the United States, of Pennsylvania, for the eastern district, directed to me for the examination of witnesses in said cause pending; which said commission is dated the 23d day of March, 1850. These witnesses being produced at the office and time aforesaid, I, the said commissioner, then and there administered to each of them an oath binding on their consciences to make true answers to the interrogatories annexed to said commission,

as is by me more fully certified; whereupon, their several depositions were taken as follows, in answer to said interrogatories:

Edward Hartley, of the county of Columbiana, and state of Ohio, aged 69 years on the 21st day of July, 1850, being produced, sworn, and examined on behalf of Peter Pegg, Daniel Pegg, Sarah Pegg, Uriah Wood and Dorathea Wood, late Dorathea Pegg, his wife, William Jacobs, and Martha Jacobs (late Martha Pegg) his wife, Peter Wilson and Susannah Wilson, (late Susannah Pegg) his wife, and Alfred Howell, administrator of the estate and effects of Elizabeth Wilson, deceased.

In answer to the first interrogatory, says: I am not acquainted with Samuel Packer, complainant, or Joseph Trotter, administrator, &c., of Matthias Aspden, deceased.

In answer to the second interrogatory in said commission set forth said witness says: I was not personally acquainted with Roger Hartley, sr., but have often heard of him by reputation from my father and mother, when I was twelve years of age, and afterwards; one of the children of Roger Hartley, sr., was my father, the remainder were my uncles and aunts; I am acquainted, and know who were the children of Roger Hartley, of Pennsylvania, and Rebecca, his wife, who was married, after the decease of her husband, to Matthias Aspden; she, Rebecca, had four children by her first husband, viz., Benjamin, Bersheba, Roger, and James Hartley; after her marriage with Aspden, she had only one child, Matthias Aspden, the testator; these five were all the children she ever had, to the best of my knowledge and information. And in further answer to interrogatory second, witness further says, as to the said Roger Hartley, the half brother of Matthias Aspden, the testator, of Philadelphia, and whom witness designates as Roger Hartley, the second, (the former part of this answer relating to Roger Hartley, sr., or the first,) witness further says: I know Roger Hartley, the second; he was my father; his children were, by his first wife, Benjamin, Jane, sometimes called Jannet, Roger, John, James, Thomas, Peter, and Rebecca. By the second wife he had Edward, Martha, and Bersheba. According to the best of my knowledge and information, they are all dead, excepting Roger and Rebecca. Benjamin Hartley, the child of said Roger, the second, died near Brownsville, Pennsylvania, about the year 1830, leaving a family of children; Jannet, or Jane, died single, leaving no issue, in Canada, previous to the year A. D. 1825.

Roger Hartley lives in Washington county, Pennsylvania, five miles from Brownsville.

James Hartley died in Greene county, Pennsylvania, between 20 and 30 years ago, leaving children; John Hartley died near Smithfield, Jefferson county, Ohio, about 1838 or 1839, leaving children; Thomas Hartley died near Brownsville, in Washington county, Pennsylvania, about 1810, leaving a family of children; Peter Hartley died at Washington county, Pennsylvania, about the year 1800, leaving children; I don't know; understood he had two.

Rebecca Hartley, married to Mahlon Doan, lived in Canada, and had a family; don't know whether she is living or dead.

Edward, the witness, resides in Columbiana county; age before stated.

Martha Hartley, married to Peter Peggs, died in Fayette county, Pennsylvania, about the year 1823, and the 27th of March, leaving children, according to my recollection.

Bersheba Hartley, married to Thomas Adams, died in Jefferson county, about June, 1838, leaving children.

Henry Hartley died in Virginia, more than 50 years since, when two or three years old.

In answer to interrogatory third the witness states, as before stated, says: one of the children of said Roger Hartley was named James, who died in Greene county, Pennsylvania, between 20 and 30 years ago; he resided there, on his farm, prior to his decease; he left children; I am acquainted with some of them, Matthias, James, and John.

4th. In answer to interrogatory fourth witness says: I am not acquainted with Martha, if said James, of Greene county, had a daughter by that name; nor do not know whether she is living or dead, or anything concerning her.

5th. In answer to interrogatory fifth witness says, that he knows Martha Hartley, the daughter of Roger Hartley, the second, the half brother of Matthias Aspden, the testator; said Martha married Peter Peggs, and by said Peggs had a family of children, six of whom are living, and three are dead; one of her children, who is now living, is married to William Jacobs (of Fayette county, Pennsylvania, as I am informed;) her name before her marriage being Martha Peggs, she being a daughter of said Martha and Peter Peggs; Martha Peggs, the wife of Peter, died in Fayette county, Pennsylvania, about the year 1823, as before stated.

EDWARD HARTLEY.

Also Martin Adams, of the county of Jefferson and State of Ohio, aged seventy-one on the 13th day of November next, 1850, being produced, sworn, and examined on behalf of said respondents above named:

1. In answer to the first interrogatory, says: I know neither Samuel Packer nor Joseph Trotter, the persons named in the title to these interrogatories.

2. In answer to interrogatory second witness says: I do not know personally Roger Hartley, a half brother of Matthias Aspden, late of Philadelphia, but have heard of him and his children and family. By his first wife he had Benjamin, Jane, sometimes called Jannet, Roger, John, James, Thomas, Peter, and Rebecca; all of whom I knew and was personally acquainted with, excepting the girls, Jane and Rebecca. By his second wife he had Edward, Martha, and Bersheba; with all of whom I was personally acquainted. According to the best of my

knowledge and information, they are all dead excepting Roger and Rebecca.

Benjamin died near Brownsville, about the year 1830, leaving a family.

Jane, or Jannet, died, leaving no issue, in Canada, prior to the year 1825.

Roger lives in Washington county, Pennsylvania.

James died in Greene county, Pennsylvania, near thirty years ago.

John died near Smithfield, Jefferson county, Ohio, about 1838 or 1839.

Thomas died near Brownsville, near forty years since.

Peter died at Washington county, Pennsylvania, about fifty years since.

Rebecca Hartley, who married Mahlon Doan, lived in Canada.

Edward resides in this, Columbiana county, Ohio. Martha, who married Peter Peggs, died in Fayette county, Pennsylvania, about 1823, leaving children. Bersheba Hartley, married to Thomas Adams, died in Jefferson county, about June, 1838.

Henry died in Virginia a long time since, without issue, being an infant at the time of his decease.

3. In answer to interrogatory third the witness says: One of the children of said Roger Hartley was named James, who was a farmer, and died in Greene county, Pennsylvania, where he resided prior to his decease. He died there about twenty-five years since, by falling from a wagon upsetting with a load of hay. I was well acquainted with him forty years ago. He left children; I knew Josiah, by some called Matthias.

4. In answer to interrogatory fourth witness says: I an not acquainted with Martha, if James had a daughter by that name, and cannot, therefore, state anything concerning her.

5. In answer to interrogatory fifth witness says: I was personally acquainted with Martha Hartley, the daughter of Roger Hartley, by me designated the second, whom I always understood to be the half brother of Matthias Aspden, the testator. Said Martha married Peter Peggs, and by said Peggs had a family, six of whom are living, and three of them dead—in all nine children. One of the children, whose name is Martha, and who resided in Jefferson county for a long time, is the wife, as I understand and believe to be true, of William Jacobs, of Fayette county, Pennsylvania—her name before her marriage being Martha Peggs, being a daughter of said Martha and Peter. In addition to Martha there are five children living, whose names are, Susanna, married to Peter Wilson, of Jefferson county; Dorothea, married, as I am informed, to Uriah Wood, of Fayette county, Pennsylvania; Peter Peggs, who lives in Fayette county, Pennsylvania; Daniel, who lives in Jefferson county, Ohio; James Peggs, who lives in Jefferson county, Ohio. One of the children deceased died with issue; the other two had none, to the best of my knowledge. The one who deceased and left issue was Elizabeth, who married William Wilson,

who resided in Jefferson county when she died. They had the following children, who are still living, three of whom live in Jefferson county, Ohio, viz., Edward, Agnes, and John. Agnes is married to Alexander Lawrence, of Jefferson county, Ohio.

Also Martha, married to Benjamin Jacobs, resides in Fayette county, Pennsylvania. I have resided in Jefferson county over forty-four years, and was well acquainted with the old stock of the Hartleys, and also know the descendants. And further witness saith not.

MARTIN ADAMS.

Attest: LYMAN W. POTTER, *Commissioner*.

THE STATE OF OHIO,
Columbiana county, ss.

I, Lyman W. Potter, the commissioner named in the commission hereto annexed, do hereby certify, that, in conformity of law, on the 16th day of April, A. D. 1850, at the office of William D. Ewing, esq., in the town of New Lisbon, Columbiana county, and State aforesaid, Edward Hartley, of said county and State, and Martin Adams, of Jefferson county, Ohio, were produced before me as witnesses in the cause of Samuel Packer vs. Joseph Trotter, administrator de bonis non cum testamento annexo of Matthias Aspden, deceased, No. 1, April sessions, 1828, pending in equity in the circuit court of the United States, in and for the eastern district of Pennsylvania; and by virtue of the annexed commission issuing out of said court, and directed to me, I proceeded to execute the same; and thereupon the said Edward Hartley, and the said Martin Adams, esq., were by me severally sworn in said cause, according to law and the custom of the country, and in the form binding upon their consciences, to make true answers to all such questions as should be asked upon the interrogatories annexed to the commission aforesaid without favor or affection to either party, and therein to speak the truth, the whole truth, and nothing but the truth; and thereupon said interrogatories being duly read to them, they gave as answers to the same the answers above set forth, which were reduced to writing by me as they are above written; and the answers of each witness were, at the end of his examination, signed by him, and attested by me, both as to the signature of the witnesses, and at the bottom of the several preceding pages of testimony.

In testimony whereof, and that said evidence was duly taken, subscribed, attached to said commission, and sealed up by me, I have hereunto set my hand and seal, this 16th day of April, A. D. 1850.

LYMAN W. POTTER, [L. S.]
Commissioner.

Commissioner's fees, $5 00.
Paid by William Jacobs, of Fayette county, Pa.

L. W. POTTER.

Commission to Fayette county, Pennsylvania.

In the circuit court of the United States, in and for the eastern district of Pennsylvania, in the third circuit, of October sessions, 1849.

No. 1. April sessions, 1828. In equity.

SAMUEL PACKER
vs.
JOSEPH TROTTER, administrator de bonis non cum testamento annexo of Matthias Aspden, deceased.

The President of the United States, to Daniel Smith, esq., of Uniontown, Fayette county, Pennsylvania:

Know ye, that in confidence of your prudence and integrity, we have given unto you, and by these presents do give unto you, Daniel Smith, esquire, full power and authority, in pursuance of a rule, lately made in the circuit court of the United States, in and for the eastern district of Pennsylvania, in the third circuit, in a certain action in equity therein depending, wherein the said Samuel Packer is the complainant, and the said Joseph Trotter, administrator, &c., of Matthias Aspden, deceased, is the respondent, to call before you at a certain day and place, by you for that purpose to be appointed, all and every person and persons who may be named to you by the said

as witnesses in the said action, and then and there to examine them, on their respective oath or affirmation, on certain interrogatories, hereunto annexed, touching the premises, and to reduce their testimony to writing; and when you shall have so done, you are to send the same to the said circuit court, closed up, and under your seal, plainly and distinctly set, together with this writ.

Witness the honorable Roger B. Taney, chief justice of the Supreme Court of the United States, at Philadelphia, this twenty-first [SEAL.] day of March, A. D. 1850, and in the seventy-fourth year of the independence of the said United States.

GEORGE PLITT,
Clerk of circuit court.

In the circuit court of the United States, in and for the eastern district of Pennsylvania.

No. 1. April session, 1828. In equity.

SAMUEL PACKER
vs.
JOSEPH TROTTER, administrator de bonis non cum testamento annexo of Matthias Aspden, deceased.

Interrogatories to be administered to witnesses, to be produced, sworn or affirmed, and examined, on behalf of Peter Pegg, Daniel Pegg, Sarah Pegg, Uriah Wood and Dorathea Wood, late Dorathea Pegg, his wife; William Jacobs and Martha Jacobs, late Martha Pegg, his wife; Peter Wilson and Susannah Wilson, late Susannah Pegg, his wife; and Alfred Howell, administrator of the estate and effects of Elizabeth Wilson, deceased.

First. Do you know the parties, complainants and defendants, in the title of these interrogatories named, or either, and which of them, and how long have you known them, or either of them?

Second. Did you know Roger Hartley, a half brother of Matthias Aspden, late of Philadelphia, deceased; do you know, or have you heard, who were all the children of said Roger Hartley? State all their names particularly; whether they are living or dead; and state, as nearly as you can, the time of the decease of any of them.

Third. If, in answer to the preceding interrogatory, that one of the children of said Roger Hartley was named James, state whether said James is living or dead. If dead, where did he reside prior to his decease; when did he die; and what children or descendants did he leave to survive him?

Fourth. If, in answer to the preceding interrogatory, you should say that one of the children of said James Hartley was named Martha, state to whom was she married. Is she living or dead? If dead, when did she die; where did she reside prior to her decease; and what children or descendants did she leave to survive her? State all you know of the matter inquired of.

Fifth. Do you know any other matter or thing favorable to the parties or either of them? If aye, state the same fully, as though particularly interrogated in relation thereto.

Fallon for Peter Pegg and others.

1850, March 21. A true copy from the original filed.

GEORGE PLITT,
Clerk of circuit court.

Depositions of witnesses produced, qualified, and examined on the 27th day of March, A. D. 1850, in the borough of Uniontown, in the county of Fayette, and State of Pennsylvania, at the office of Daniel Smith, a commissioner appointed by the circuit court of the United States, for the eastern district of Pennsylvania, to take the testimony of witnesses to be produced, sworn or affirmed, and examined in behalf of Peter Pegg et al., in pursuance of the commission and interrogatories hereunto annexed, in a certain action pending in the said court in equity, wherein Samuel Packer is complainant, and Joseph Trotter, administrator de bonis non cum testamento annexo of Matthias Aspden, deceased, is respondent.

Elizabeth Wilson, of lawful age, being first duly sworn, deposes and

says, in answer to the several interrogatories to the said commission annexed:

In answer to the first interrogatory witness saith: I do not know Samuel Packer nor Joseph Trotter, but I do know Peter Pegg, Daniel Pegg, James Pegg, Uriah Wood and Dorothea Wood, his wife, (late Dorothea Pegg,) William Jacobs and Martha, his wife, (late Martha Pegg,) and Peter Wilson and Susannah, his wife, (late Susannah Pegg.) I have known them ever since they were born—from twenty to forty years.

In answer to second interrogatory witness saith: I did know Roger Hartley, and I think I have heard him say he was a half brother to Matthias Aspden, of Philadelphia, but I don't know to my knowledge whether he was or not. Of the children of the said Roger Hartley I knew Roger, and I knew James, and Edward, and Agnes, and Martha. There *was* some others, whose names I do not recollect. Those named have all been at our house. I also knew Barsheba. James Hartley is dead, but I do not know when he died; it must be some twenty or thirty years ago. Roger is living in Washington county, Pennsylvania, unless he has died very lately. Barsheba, who was married to Thomas Adams, and lived in Ohio, is also dead, but when she died I cannot say; the child that I allude to as Barsheba is the same one that I had called Agnes. Edward was living the last time I heard from him. He lived in Ohio. Martha, who was married to Peter Pegg, died twenty-seven years ago the 20th day of this month, (March, 1850.) She died before her husband, who is also dead.

In answer to the third interrogatory witness saith: That the said James Hartley, son of Roger, is dead, as before stated. He lived and died in Greene county, Pennsylvania; but when he died I cannot say, further than I have already stated. He left several children; I knew two of them, Sally and Matilda.

In answer to the fourth interrogatory witness saith: James Hartley had no daughter named Martha that I ever heard of. Martha Hartley, above named, as having been the wife of Peter Pegg, deceased, was a daughter of Roger Hartley, the elder, and a half sister of the said James Hartley. She was married to Peter Pegg, as already stated, and died about twenty-seven years ago, as already stated. When I first knew Martha she lived in what was called "Canowlaway," about eight miles north of Hancock, Maryland. She was then married to Peter Pegg; but when she was married, or where she lived before, I do not know. She moved from there to Greene county, Pennsylvania, and then they came to within about two miles of Uniontown, Fayette county, Pennsylvania, where she lived until her death. She left the following children surviving her, viz., Edward, Elizabeth, and Sarah, all of whom are since dead. Edward was married, and left a wife and two children; I believe his wife is still living; one of the children is dead; whether the other is dead or not I don't know. Elizabeth was married to William Wilson, and has been dead, I think, twenty-four years ago last fall; her husband is still living; she left four

children—Edward, Martha, Agnes, and John; they are all married and living; Martha is married to Benjamin Jacobs, and Agnes to Alexander Lawrence; they all live in Ohio except Martha, who lives near Uniontown, Fayette county, Pennsylvania; Sarah died unmarried, and without children. Of these three children of Martha Pegg, Edward died since his father, and Elizabeth and Sarah before he died. Martha Pegg left other children, who are still living, viz., Peter Pegg, who lives near Uniontown, Pennsylvania; Daniel Pegg, who lives in Ohio; James Pegg, who lives in Ohio; Dorothea, married to Uriah Wood, who lives near Uniontown, Pennsylvania; Martha, married to William Jacobs, who lives near Brownsville, Fayette county, Pennsylvania; Susannah, married to Peter Wilson, who lives in Ohio.

In answer to the fifth interrogatory witness saith: I know nothing more which I suppose would be material. I am in my 75th year. I was 74 on the 11th day of this month.

her
ELIZABETH ✕ WILSON.
mark.

I do certify that the foregoing named witnesses were duly qualified and examined before me at the time and place mentioned in the caption, in the presence of the counsel of the heirs of Martha Pegg.

In testimony whereof I have hereunto set my hand and seal, this 4th day of May, A. D. 1850.

DANIEL SMITH, [SEAL.]
Commissioner.

Commissioner's fees, $2 00.
Paid by Peter Pegg.

Commission to Washington and Greene county, Pennsylvania.

In the circuit court of the United States, in and for the eastern district of Pennsylvania, in the third circuit, of October session, 1849.

April sessions, 1828. No. 1. In equity.

SAMUEL PACKER
vs.
JOSEPH TROTTER, administrator de bonis non cum testamento annexo of Matthias Aspden, deceased.

The President of the United States, to Job Johnson, esquire, of Greenfield, Washington county, Pennsylvania; Persifer F. Gibbons, esquire, of East Bethlehem, Washington county, Pennsylvania; James A. Black, Charles A. Black, and William Boone, esquires, of Greene county, or either of them, commissioners, named by and on behalf of Roger Hartley and others, petitioners.

Know ye, that, in confidence of your prudence and integrity, we have given unto you, and by these presents do give unto you, or either

of you, full power and authority, in pursuance of a rule lately made in the circuit court of the United States, in and for the eastern district of Pennsylvania, in the third circuit, in a certain action in equity, therein depending, wherein the said Samuel Packer is complainant, and the said Joseph Trotter, administrator as aforesaid, is respondent, Roger Hartley and others, petitioners, to call before you, at a certain day and place by you for that purpose to be appointed, all and every person or persons who may be named to you by the said petitioners, as witnesses in the said action, and then and there to examine them, on their respective oath or affirmation, on certain interrogatories, hereunto annexed, touching the premises, and to reduce their testimony to writing; and when you shall have so done, you are to send the same to the said circuit court, closed up, and under your seals, plainly and distinctly set, together with this writ.

Witness the honorable Roger B. Taney, chief justice of the Supreme court of the United States, at Philadelphia, this second day [L. S.] of February, A. D. 1850, and in the seventy-fourth year of the independence of the said United States.

GEORGE PLITT,
Clerk of the circuit court.

The execution of this commission appears in a certain schedule hereunto annexed.

CHARLES A. BLACK,
Commissioner.

In the circuit court of the United States, for the eastern district of Pennsylvania.

No. 1. April sessions, 1828. In equity.

SAMUEL PACKER
vs.
JOSEPH TROTTER, administrator de bonis non cum testamento annexo of Matthias Aspden, deceased.

Interrogatories to be administered to witnesses to be produced, sworn or affirmed, and examined, on behalf of Roger Hartley, David Hartley, and Jesse Hartley, James Sloanaker and Nancy, his wife, and others, petitioners and claimants in the above case.

First. Do you know the parties, complainant and defendant, in the title of these interrogatories named, or either, or which of them; and how long have you known them, or either of them?

Second. Did you know Roger Hartley, a half brother of Matthias Aspden, late of Philadelphia, deceased; do you know, or have you heard, who were all the children of the said Roger Hartley? State all their names particularly, whether they are living or dead; and state, as nearly as you can, the time of the decease of any of them.

Third. State, according to the best of your information and belief, where the children of the said Roger Hartley reside.

Fourth. Have you, in your possession, any letters, papers, family bibles, or documents, that show who were the descendants of the said Roger Hartley? If so, annex them to your depositions.

Fifth. Was Roger Hartley, of East Bethlehem, Washington county, Pennsylvania, a son of the said Roger Hartley? State whether he is living; and if so, his age.

Sixth. Do you know whether John Hartley, late of Jefferson county, Ohio, was a son of the first named Roger Hartley? State whether he is living or dead; and if the latter, when he died.

Seventh. State, if you know, whether Benjamin Hartley, late residing in Washington county, Pennsylvania, was a son of the first named Roger Hartley; whether he is living or dead; if the latter, when he died.

Eighth. State, if you know, whether James Hartley, late residing in Greene county, Pennsylvania, was another of said sons; whether he is living or dead, and when he died.

Ninth. State, if you know, whether Thomas Hartley was another of said sons, and where he resided; whether he is living or dead; and if the latter, when he died. State whether he left any children; and if so, state the names of all said children, and whether any of said children are dead; if there were daughters, state if they are married, and to whom.

Tenth. Do you know whether Rebecca Doan, formerly Rebecca Hartley, was a daughter of the first named Roger Hartley? State, if you know, where she resides, and whether living or dead.

Eleventh. Do you know, or can you set forth, any other matter or thing which may be of benefit or advantage to the parties at issue in this cause, or either of them, or that may be material to the subject of this your examination, or the matters in question in this cause? If yea, set forth the same fully and at large in your answer.

2d February, 1850. A true copy from the original filed.

GEORGE PLITT, *Clerk C. C.*

Depositions of witnesses produced, affirmed, and examined on the twelfth day of April, in the year of our Lord one thousand eight hundred and fifty, at the house of Roger Hartley, in East Bethlehem township, Washington county, State of Pennsylvania, by virtue of a commission issuing from the circuit court of the United States, in and for the eastern district of Pennsylvania, to Washington and Greene counties, Pennsylvania, directed for the examination of witnesses in a certain case depending in said court, wherein Samuel Packer is complainant, and Joseph Trotter, administrator D. B. N. C. T. A. of Matthias Aspden, deceased, is defendant.

CHARLES A. BLACK, *Commissioner.*

Roger Hartley, of East Bethlehem township, Washington county,

Pennsylvania, aged eighty-six years or thereabouts, being produced, affirmed, and examined on behalf of the claimants in the above case:

To the first interrogatory on the part of the claimants he answers as follows: I have no acquaintance with Samuel Packer, the complainant, and have none with Joseph Trotter, the defendant; but have been acquainted with David Hartley, Jesse Hartley, Nancy Hartley, intermarried with James Sloanaker, and others, claimants, as will appear in answers to subsequent interrogatories.

To the second interrogatory on the part of the claimants he answers as follows: I knew Roger Hartley, who was a half brother of Matthias Aspden, deceased. I have also seen Matthias Aspden, deceased, in Philadelphia, and heard him speak of Roger Hartley as his half brother. The time I saw Matthias Aspden, I think, was the last time he was in Philadelphia. He then spoke of Roger Hartley as his half brother. Roger Hartley had, I think, eleven children, to wit, Jennet, Benjamin, James, Roger, John, Thomas, Peter, Rebecca, Edward, Martha, and Barsheba.

Jennet was the oldest, and died unmarried, before Matthias Aspden. She died more than thirty years ago in Canada. Benjamin died in Washington county, Pennsylvania. He died since Matthias Aspden's death. I cannot tell precisely the year. He died since the death of his brother James, as he (Benjamin) and myself were at James's burial. James, the third child, is also dead. He died in Greene county, Pennsylvania, about twenty years ago; cannot tell exactly what year. He died since the decease of Matthias Aspden. John, the fourth child, died in Ohio, since the death of Matthias Aspden.

Roger, the fifth child, is deponent. He has no records to show the fact, but knows from other circumstances that he was a son of Roger Hartley, who was a half brother of Matthias Aspden. The interview with Matthias Aspden, referred to as above, was at the instance and under the direction of my father, Roger Hartley, who told me to go and call on my uncle, Matthias Aspden. I still reside in Washington county, Pennsylvania. Thomas Hartley, the sixth child, is dead. He died more than thirty years ago; some time before Matthias Aspden died. He left several children, but cannot remember all their names.

Peter Hartley, the seventh child, has been dead more than fifty years; cannot say where he died, and cannot say anything about his children. Rebecca, the eighth child, was married to a man by name of Doane, and, from last accounts, is alive, and living in Canada. Edward, the ninth child, is believed to be living; have not seen him for twenty-five or thirty years, and cannot say anything about him. Martha, the tenth child, was married to Peter Pegg. She has been dead many years. She left children, but cannot say whether she died before or after the death of Aspden. Barsheba, the eleventh child, was married to Thomas Adams. She is also dead. She died since the death of Matthias Aspden. She left children, but know nothing about them. Martha, who married Peter Pegg, lived and died in Fayette county, Pennsylvania.

To the third interrogatory he answers, that he has, to the best of his

knowledge and ability, given the residence of the children of Roger Hartley, who are living, in his answer to the second interrogatory.

To the fourth interrogatory he answers, that he has no letters, papers, family bibles, or documents, showing who were the descendants of Roger Hartley.

To the fifth interrogatory he answers, that he believes that deponent is the Roger Hartley referred to in this interrogatory. He knows that Roger Hartley, with whom he resided, was his reputed father, and uniformly treated him as his son, and that his father, the said Roger Hartley, was a half brother of Matthias Aspden. His age, as already stated, is upwards of eighty-six years, and his present residence is in East Bethlehem township, Washington county, Pennsylvania.

To the sixth interrogatory he answers, that John Hartley, who died in , Ohio, was a son of Roger Hartley, the half brother of Matthias Aspden; cannot say when he died.

To the seventh interrogatory he answers, that Benjamin Hartley, who died in Washington county, Pennsylvania, was also a son of the said Roger Hartley; cannot fix the year in which he died, but it was since the death of his brother James, and was since the death of Matthias Aspden.

To the eighth interrogatory he answers, that James Hartley, who died in Greene county, Pennsylvania, was also a son of Roger Hartley, the half brother of Matthias Aspden. He cannot fix the year of his death, but knows that it was since the decease of Matthias Aspden; he was at his burial with his brother Benjamin. James resided with his father, the said Roger Hartley, until he was about eighteen years of age, when he became an apprentice in Bucks county, Pennsylvania, to learn the trade of shoemaking. He moved into Washington county, Pennsylvania, before deponent came out. He then went to Virginia and staid awhile; from thence he moved into Greene county, Pennsylvania, where he continued to reside until his death. I have often seen the name of James Hartley, who died in Greene county, with the names of the rest of the children, as recorded by their father. The record has long since been lost or destroyed. James Hartley lived and died near Greensboro', Greene county, Pennsylvania, in Monongahela township, where his widow and some of his children still reside.

To the ninth interrogatory he answers, that Thomas Hartley, who died in Washington county, Pennsylvania, was another of the children of Roger Hartley aforesaid, but cannot state particularly as to the time of his death, or as to the number and names of his children.

To the tenth interrogatory he answers, that Rebecca Doan, formerly Rebecca Hartley, was a daughter of Roger Hartley, half brother of Matthias Aspden. She resides in Canada, or did at the last account.

To the eleventh interrogatory he answers, that he cannot set forth any matter of benefit or advantage to the parties at issue, other than has been set forth in the answers to the preceding interrogatories.

ROGER HARTLEY.

Subscribed before me, CHARLES A. BLACK,
Commissioner

Depositions of witnesses produced, affirmed, and examined on the sixteenth day of April, A. D. 1850, at my office in the borough of Waynesburg, in Greene county, State of Pennsylvania, by virtue of a commission issuing from the circuit court of the United States, in and for the eastern district of Pennsylvania, to Washington and Greene counties, Pennsylvania, directed, for the examination of witnesses in a certain cause depending in said court, wherein Samuel Packer is complainant, and Joseph Trotter, administrator D. B. N. C. T. A., is defendant.

CHARLES A. BLACK,
Commissioner.

David Hartley, of the county of Washington, State of Pennsylvania, aged forty-five years or thereabouts, being produced, affirmed, and examined, on behalf of the claimants, deposeth as follows:

To the first interrogatory he answers as follows: That he does not know either Samuel Packer, the complainant, or Joseph Trotter, but that he is acquainted with Roger Hartley, Jesse Hartley, David Hartley, James Sloanaker and Nancy, his wife, and others, claimants in this case. He has known those named since his earliest recollection.

To the second interrogatory he says, he did not know Roger Hartley, a half brother of Matthias Aspden deceased; he only knows who were his children by report; they were Roger, Peter, John, Thomas, James, Rebecca, Edward, Martha, and Barsheba, Jannet, and Benjamin.

He cannot say how many are living, or when those died who are deceased; he knows that Roger Hartley is living, and resides in East Bethlehem township, Washington county, Pennsylvania.

To the third interrogatory he says, that he cannot say where any of the children of Roger Hartley reside, except Roger, who lives in Washington county, as stated in answer to the second interrogatory.

To the fourth interrogatory he says, that he has no letters, papers, family bibles, or documents, as referred to in this interrogatory.

To the fifth interrogatory he says, that he has always understood Roger Hartley, of East Bethlehem township, Washington county, Pennsylvania, to be a son of Roger Hartley, deceased, who was a half brother of Matthias Aspden, deceased; that he resides in said place, and his age he cannot give correctly.

To the sixth interrogatory he says, he always understood that John Hartley, who lived and died in Jefferson county, Ohio, was a son of Roger Hartley, but cannot say when he died.

To the seventh interrogatory he says, that from report Benjamin Hartley, who lived and died in East Bethlehem township, Washington county, Pennsylvania, was also a son of Roger Hartley, who was a half brother of Matthias Aspden, deceased; that the said Benjamin is dead, and that he died about the year 1829.

To the eighth interrogatory he says. that, from report, James Hartley, who lived and died near Greenesborough, Greene county, Pennsylvania, was also a son of the said Roger Hartley, deceased; that James Hartley died in the year 1827; that he was at the burial.

To the ninth interrogatory he says, that Thomas Hartley was also reported and believed to be one of the children of Roger Hartley, deceased; that he died in East Bethlehem township, Washington county, Pennsylvania, in the year 1811; he left the following children: Jesse, David, Rebecca,(married to James Rannels;) Mary married a man by the name of Tolbert; Nancy married to James Slonaker; Susannah married to Daniel Luce; from last accounts they were all living; David and Jesse both reside in Washington county, Pennsylvania; the others in Ohio.

To the tenth interrogatory he says, he always understood that Rebecca Doan was a daughter of Roger Hartley, deceased; from last account she was living in Canada.

To the eleventh interrogatory he says, that he can set forth nothing further which may be of advantage or benefit to the parties than has been stated.

DAVID HARTLEY.

Subscribed before me,

CHARLES A. BLACK,
Commissioner.

Peter Hartley, of East Bethlehem township, Washington county, Pennsylvania, aged about forty-eight years, being produced, affirmed, and examined on the part of the claimants, deposeth as follows:

To the first interrogatory he answers as follows, that he does not know either Samuel Packer or Joseph Trotter, but that he knows Roger Hartley, David Hartley, Jesse Hartley, James Slonaker and Nancy, his wife, and others, claimants in this cause.

To the second interrogatory he says, he did not know Roger Hartley, late of Philadelphia, deceased. He has heard that he had eleven children, whose names were Jannet, Benjamin, James, John, Peter, Thomas, Roger, Martha, Rebecca, Edward, and Barsheba. He believes that all the children are dead, except Roger, who resides in East Bethlehem township, Washington county, Pennsylvania; and Rebecca Doane, who lives in Canada. James Hartley died in 1827; Thomas died in 1811; Benjamin died in 1829, September 22d; John died in Jefferson county, Ohio, cannot say when; Barsheba Adams died in Ohio, Columbiana county, since the decease of Matthias Aspden; cannot say when the rest of the children died.

To the third interrogatory he says, that Roger Hartley, one of the children, resides in East Bethlehem township, Washington county, Pennsylvania; and from report Rebecca Doane lives in Canada.

To the fourth interrogatory he says, he has no such papers, books, or documents as are referred to in this interrogatory.

To the fifth interrogatory he says, that Roger Hartley, of East Bethlehem township, Washington county, Pennsylvania, was always reputed to be the son of Roger Hartley, deceased, who was a half brother of Matthias Aspden, deceased; that he now resides, as just stated, in Washington county, Pennsylvania, and is aged about eighty-six years.

To the sixth interrogatory he says, that John Hartley was always considered a son of Roger Hartley, deceased; that he lived in Jefferson county, Ohio, but cannot say when he died; but thinks it was since the death of Aspden.

To the seventh interrogatory he says, that Benjamin Hartley was also always regarded as a son of Roger Hartley, deceased; he died in the year 1829, at the house of Roger Hartley, in East Bethlehem township, Washington county, Pennsylvania.

To the eighth interrogatory he says, that James Hartley, who lived and died near Greenesborough, Greene county, Pennsylvania, was always considered a son of Roger Hartley, deceased; he has heard both Benjamin Hartley and Roger Hartley speak of James Hartley as their brother; James Hartley died in Greene county, Pennsylvania, in 1827.

To the ninth interrogatory he says, that Thomas Hartley was always acknowledged by Roger and Benjamin as their brother, and consequently son of Roger Hartley, the elder; he died in Washington county, Pennsylvania, in 1811, or thereabouts, and left the following children: Rebecca, married to Hugh Rannels, and lives in Ohio; Mary, married to a man by the name of Tolbert, and lives in Ohio; Nancy, married to James Slonaker, and lives in Ohio; Susannah, married to Daniel Luce, lives in Guernsey county, Ohio; and Jesse and David, who both reside in East Bethlehem township, Washington county, Pennsylvania.

To the tenth interrogatory he says, that Rebecca Doane was also always considered and treated as one of the children of Roger Hartley, deceased. From the last accounts she was living in Canada.

To the eleventh interrogatory he says, that he cannot set forth any thing or matter of benefit or advantage to the parties other than has been stated.

PETER HARTLEY.

Subscribed before me, CHARLES A. BLACK,
Commissioner.

Samuel M'Cutchen, of East Bethlehem township, Washington county, Pennsylvania, aged about fifty-three years, being produced, affirmed, and examined, on the part of the claimants, deposeth as follows, to wit:

To the first interrogatory he says, does not know either Samuel Packer or Joseph Trotter, but knows Roger Hartley, Jesse Hartley, David Hartley, and others, claimants in this cause.

To the second interrogatory he says, he did not know Roger Hartley, the elder, of Philadelphia, deceased. Do not know who were his children, except by report; and knew none of them except Roger and Benjamin. Roger, who is reported and believed to be one of his children, resides in East Bethlehem township, Washington county, Pennsylvania; and Benjamin, who was also regarded as one of his sons, died in Washington county, Pennsylvania, in the year 1829. He first became acquainted with him about April, 1829, and he died within a few months afterwards.

To the third interrogatory he says, he knows nothing about any of the children except Roger, who is still living, and Benjamin, who died in 1829.

To the fourth interrogatory he says, he has no papers, books, or documents, as are referred to in this interrogatory.

To the fifth interrogatory, he can give no answer except as to his residence, as already given.

To the sixth interrogatory he says, he can give no answer.

To the seventh interrogatory he says, Benjamin Hartley, who died in Washington county, Pennsylvania, in the year 1829, was always considered and regarded as a brother of Roger Hartley, who still resides in East Bethlehem township, Washington county, Pennsylvania.

To the eighth interrogatory he says, he can give no answer.

To the ninth interrogatory he says, he can give no answer.

To the tenth interrogatory he says, he can give no answer.

To the eleventh interrogatory, he can state nothing further of benefit or advantage to the parties to this cause than has already been stated.

SAMUEL M'CUTCHEN.

Subscribed before me, CHARLES A. BLACK,
Commissioner.

Justus Garard, of the township of Monongahela, in the county of Greene, State of Pennsylvania, aged upwards of fifty years, or thereabouts, being produced, affirmed, and examined on the part of the claimants, deposeth as follows:

To the first interrogatory he answers, that he knows neither the plaintiff nor defendant in this cause, nor any of the claimants named in this interrogatory. He only knew James Hartley, deceased, whose administrator is said to be a claimant.

To the second interrogatory he says, he can give no answer, except that by report James Hartley, who died near Greenesboro', Greene county, Pennsylvania, was a son of Roger Hartley, deceased. He did not know said Roger Hartley.

To the third interrogatory he says, he cannot say who were the children of Roger Hartley, deceased, except as to report in the case of James Hartley, deceased, referred to in the last answer.

To the fourth interrogatory he answers in the negative.

To the fifth interrogatory he answers, that he cannot say.

To the sixth interrogatory he answers, that he cannot say.

To the seventh interrogatory he answers, that he knows nothing.

To the eighth interrogatory he answers, that he knew James Hartley, who lived and died near Greensboro', Greene county, Pennsylvania, and who was reported to be a son of Roger Hartley, of Philadelphia, deceased; that the deponent was the crier at the sale of the said James Hartley's estate, and knows that he died in Greene county, as aforesaid, in the year 1827; that deponent has lived in Greene county, Pennsylvania, Monongahela township, and knows that no other James

Hartley, except the one referred to, ever lived and died in that neighborhood. He always resided in said township, and knows that James Hartley, deceased, lived and died there, as just stated.

To the ninth interrogatory he answers, that he knows nothing.

To the tenth interrogatory he answers, that he knows nothing.

To the eleventh interrogatory he answers, that he can state nothing further of benefit or importance to the parties.

JUSTUS GARARD.

Subscribed before me,

CHARLES A. BLACK, *Commissioner*.

Documentary evidence.

October 12th, 1849.

Statement of the assets from the administrator de bonis non c. t. a. — 1849, Oct. 12th.

October 19th, 1849.

Letters of administration d. b. n. c. t. a. on estate of Mary Ann Church. — 1849, Oct. 16th, Philadelphia.

Letters of administration on estate of Mary Evans to C. W. Horner. — 1834, November 12th, Philadelphia.

Letters of administration on estate of William Hinchman to Joseph Hinchman. — 1826, Feb. 1st, Gloucester co., N. Jersey.

Letters of administration on estate of James Hinchman to Joseph Hinchman and Thomas Hollinshed, (since dead.) — 1825, March 1st, Burlington co., N Jersey.

October 26th, 1849.

"The explanation of Reed's map of Philadelphia," containing a list and survey of city lots. — 1784. Reprinted 1846.

Page 7. Fourth street, 50 feet, Daniel Jones, 3 lots.

November 2d, 1849.

Deed. Rebecca Aspden and Daniel Packer to Matthias Aspden and James Hartley. — 1768, May 10th. (5.)

Deed. Jeremiah Carter and others to Matthias Aspden. — 1768, May 30th. (11.)

Declaration or notice of revocation of warrant of attorney, signed Daniel Jones. — 1768, June 9th. (No. 3.)

December 3d, 1849.

Letters of administration on estate of Samuel C. Zane to Aaron Zane and Joseph Ellis. — 1847, June 28th, Philadelphia.

January 9th, 1850.

1847, June 28th, Philadelphia. Letters of administration de bonis non estate of Sarah Champion to Aaron Zane and James Ellis.

1850, Jan. 3d, Philadelphia. Letters of administration on estate of Rhoda Sweaton (late Hammet) to Wm. Sweaton.

1831, Dec. 21st, Gloucester co., N. Jersey. Letters testamentary. Will of Rebecca Borrough to Wm. Brick.

1848, Oct. 5th, Philadelphia. Letters of administration on estate of Asher Hartley to Matthias Aspden Hartley.

1850, Jan. 8th, Philadelphia. Letters of administration c. t. a. of Elizabeth Brick to Abraham Kirby.

1848, May 19th, Philadelphia. Letters of administration on estate of Ann Ellis to Joseph Ellis.

1848, May 16th, Philadelphia. Letters of administration on estate of John Zane to Obed Welden.

1850, Jan. 8th, Philadelphia. Letters testamentary. Will of Isaac Zane to James Ellis and Evan C. Smith.

1829, Oct. 22d, Washington co., Penn. Letters testamentary. Will of Benjamin Hartley to Peter Hartley.

1848, Oct. 2d, Greene co., Penn. Letters of administration d. b. n. on estate of James Hartley to Matthias Hartley.

1849, Dec. 24th, Philadelphia. Letters of administration on estate of Rebecca Fowler to Rebecca K. Bartram.

1850, Jan'y 8th, Philadelphia. Letters of administration on estate of Eliza Wilson to James P. Frazer, sen.

1850, Jan'y 8th, Philadelphia. Letters of administration on estate of Miriam Jones to James P. Frazer, sen.

January 23d, 1850.

1849, Dec. 17th, Philadelphia. Letters of administration on estate of Thomas West Stone to Thomas Balch, esq.

1849, Dec. 28th, Philadelphia. Letters of administration on estate of Thomas R. West to Thomas Balch, esq.

1850, Jan. 17th, Philadelphia. Letters of administration on estate of Elizabeth Fortiner to Joshua P. Browning.

1850, Jan. 17th, Philadelphia. Letters of administration c. t. a. of Thomas B. Hartley to Joshua P. Browning.

February 6th, 1850.

1845, July 19th, Philadelphia. Letters testamentary. Will of Thomas C. Brown to Samuel Baugh.

1850, Jan. 10th, Philadelphia. Letters of administration on estate of John Brick to Zebiah Brick.

February 20th, 1850.

Letters of administration on estate of James Hartley to Benjamin F. Black and Otho W. Miner. 1827, Sept. 10th, Greene co., Penn.

Letters of administration c. t. a. of Bathsheba Brick to Jacob S. Brick. 1850, Feb. 7th, Philadelphia.

Letters of administration on estate of John Hartley, late of Ohio, to Charles Shaler, esq. 1850, Feb'y 4th.

March 20th, 1850.

Letters of administration on estate of Rebecca Kay to Charles Kay. 1850, March 20th, Philadelphia.

May 6th, 1850.

Deed. Christopher Clymer and others, trustees of the general loan office, to Frances Bowes. 1745, Nov'r 30th.

Recorded, G. W. R., No. 17, p. 619.

Deed. Thomas Lawrence and others, executors of Frances Bowes, to Matthias Aspden. 1750, May 23d.

Recorded, H. vol., p. 142.

Deed. Trustees of University of Pennsylvania to Joseph Mercier. 1791, Nov'r 3d.

Recorded, D. B., No. 30, p. 140.

Deed. Louisa Mercier and others, to Stephen Girard. 1823, Dec. 10th.

Recorded, J. H. N. 9, p. 45.

Mortgage. Joseph Mercier to Samuel Magaw. 1791, Dec'r 4th.

Recorded, M. B., No. 7, p. 519. Satisfaction entered, 6th December, 1823.

Bond. Same to same, and warrant of attorney annexed. 1791, Dec'r 4th.

Judgment entered in supreme court, 27th Nov., 1793.

Proclamation of supreme executive council, requiring Matthias Aspden (inter alios) to surrender. 1780, July 27th.

Minutes of supreme executive council, (from vol. 5, pp. 9, 10, and 69, 70.) 1782, June 10th.

May 8th, 1850.

Letters testamentary. Will of Elizabeth Macpherson to Thomas H. White and Charles Chauncey, esq. 1831, Nov. 10th, Philadelphia.

Letters of administration on estate of Mary Bronson to George Rundle. 1826, Nov. 23d, Philadelphia.

Patent. The Commonwealth of Pennsylvania to Edward Bartholomew. 1786, Aug. 25th.

Enrolled in Patent book No. 6, p. 437.

Deed. Edward Bartholomew to Robert Mendenhall. 1796, Feb'y 28th.

Recorded in Delaware co., Deed book D, fol. 104.

1800, April 27th. Deed. Robert Mendenhall to George Hunter.
Recorded in Delaware co., Deed book L, p. 624.

1837, April 1st. Deed. George M. Hunter and others, to William Hunter.
Recorded in Delaware co., Deed book U, p. 94.

May 9th, 1850.

1850, March 18th, Fayette co., Pa. Letters of administration of estate of Elizabeth Wilson, (formerly Elizabeth Pegg,) widow, to Alfred Howell.

May 13th, 1850.

1830, Feb'y 16th. Will of Stephen Girard.

1830, Dec'r 30th. First codicil to same.
Second do. do.

1831, June 20th. Proved 31st December, 1831.

May 15th, 1850.

1850, Jan'y 2d, Philadelphia. Letters of administration d. b. n. of Wm. Hinchman, deceased, to Joseph Hinchman.

1850, Jan'y 2d, Philadelphia. Letters of administration d. b. n. of James Hinchman, deceased, to Joseph Hinchman.

May 16th, 1850.

1850, Feb'y 4th, Philadelphia. Letters of administration of estate of Barsheba Adams to Thomas Adams.

1850, May 16th. Statement of investment of assets by administrator of Matthias Aspden, since October 12th, 1849.
Copies of entries in books of the University of Pennsylvania, testified to by Geo. Emlen, esq., the secretary.

1849, March 23d, Philadelphia. Letters of administration on estate of Mary Harrison to John Brown Francis, esq.

I. *Statement of the assets furnished by the executor, October 12th, 1849.*

Estate of Matthias Aspden, October 12th, 1849.

		Par value.	Appraised value and cost.	Remarks.
Cash		$780 53	$780 53	
U. S. five per cent. stock, 1853		58,000 00	58,848 68	Cost 101.46 per cent.
" six "	$21,000, 1856 23,000, 1862 8,000, 1867	52,000 00	53,802 22	" 103.46 "
Penn'a five per cent. stock		415,000 00	335,693 83	Val. and cost 80.88 per cent.
" six " "		3,000 00	2,490 83	Cost 83 per cent.
City Philad'a five per cent. stock		23,100 00	22,820 00	Val. and cost 98.78 per cent.
" six " "		18,000 00	19,080 00	Val. 106 per cent.
Philad'a co. five per cent. stock		10,000 00	8,691 25	Cost 86.91 per cent.
" " six " "		16,000 00	15,377 50	" 96.10 "
Girard Bank, 100 shares, at $50		5,000 00	2,825 00	Val. 28.25 per share.
Bank U. S., 320 shares, at $100		32,000 00	6,400 00	" 20 "
Judgment against Nixon for taxes		478 08	478 08	
Union Canal, 14 138-200 shares		2,233 40	1,116 70	Val. 50 per cent.
Bonds and mortgages, viz:				
C. Shippen, (property sold—this balance will be a loss)	$1,153 37			
J. W. Tilford	18,000 00			
Coleman Fisher	10,000 00			
Eliza Wilson	5,000 00			
Elizabeth Ray	2,000 00			
J. S. Spencer, (3 of $3000 each)	9,000 00			
Kimber & Sharpless	5,000 00			
H. Gardner	2,500 00			
		52,653 37	52,653 37	
		$688,245 38	$581,057 99	

The interest on Tilford's mortgage, from June 12, 1841, to October 12, 1849, eight years and four months			$9,000 00
Received up to January 13, 1842		$300 00	
Sundry rents received from Western Exchange Hotel, from April 1, 1843, to October 2, 1849	$5,100 00		
Deduct paid for repairs, taxes, &c., during that time	2,419 33		
		2,680 67	
			2,980 67
Amonnt of interest due			6,019 33
The balance due from Nixon's estate, per Auditor's report, is			$75,789 91
A further sum is claimed of said estate			50,645 98

JOSEPH TROTTER,
Administrator, &c., M. Aspden's estate.

Philadelphia, October 12th, 1849.

Investments for estate of Matthias Aspden since October 12th, 1849.

1850.			
Jan. 1.	$4,000 Philadelphia county six per cent. loan, at 99 per cent. and brokerage		$3,970 00
Jan. 28.	$5,000 Pennsylvania six per cent. loan, at 99¼ per cent. and brokerage		4,987 50
Feb. 5.	$12,000 Pennsylvania six per cent. loan, at 99½ per cent. and brokerage		11,970 00
March 7.	$3,000 Pennsylvania five per cent. loan, at 90½ per cent. and brokerage		2,722 50
"	$1,000 Pennsylvania five per cent. loan, at 90⅝ per cent. and brokerage		908 75
"	$1,000 Pennsylvania five per cent. loan, at 90¾ per cent. and brokerage		910 00
			25,467 75
Deduct amount of Coleman Fisher's bond and mortgage paid, included in report to T. I. Wharton, October 12th, 1849		$10,000 00	
Deduct also the amount of cash in said report, both included in the above investments		780 00	
			10,687 53
			$14,687 22

JOSEPH TROTTER,
Administrator, &c.

Philadelphia, May 16th, 1850.

II. *Deed poll—Rebecca Aspden and Daniel Packer to Matthias Aspden and James Hartley.*

To all people to whom these presents shall come, Rebecca Aspden, of the city of Philadelphia, in the province of Pennsylvania, widow, and Daniel Packer, of Wolwich township, in the county of Gloucester, in the western division in the province of New Jersey, (the said Rebecca and Daniel being the only surviving children of Rebecca Packer, who was the only surviving daughter and issue of Daniel Jones, one of the first adventurers and purchasers in the said province of Pennsylvania,) send greeting: Whereas the said Daniel Jones, by virtue of some purchase or purchases made of the first proprietary, William Penn, esq., and other persons, was in his lifetime seized and possessed of, or entitled to, several city and liberty lots and other tenements and tracts of land in the said province, and rights to such lots and lands, and being so seized and possessed of, or intituled to as aforesaid, died intestate, his estate in the premises descended to the aforesaid Rebecca Packer, and from her to the said Aspden and Daniel Packer: Now, know ye, that the said Rebecca Aspden and Daniel Packer, for and in consideration of the natural love and affection which they respectively bear unto Matthias Aspden and James Hartley, both of the said city of Philadelphia, merchants, the sons of Rebecca Aspden, and nephews of the said Daniel Packer, have given, granted, aliened, enfeoffed, and confirmed, and by these presents do, and each of them doth, give, grant, alien, enfeoff, and confirm, unto the said Matthias

Aspden and James Hartley, their heirs and assigns, all and singular the part and parts, purpart and purparts, share and shares whatsoever, of them, the said Rebecca Aspden and Daniel Packer, of, in, and to all and singular the messuages, lands, lots, tenements, and hereditaments, and rights to lands, tenements, and hereditaments located or unlocated in the said province of Pennsylvania, which were of the said Daniel Jones, and not by him disposed of in his lifetime; descended to his daughter, Rebecca Packer, and by her not disposed of, descended to the said Rebecca Aspden and Daniel Packer, together with all and singular the rights, members, and appurtenances whatsoever, unto the said messuages, lands, lots, tenements, and hereditaments respectively belonging, or in any wise appertaining, and the reversions and remainders thereof, and all the estate, right, title, interest, property, claim, and demand whatsoever of them, the said Rebecca Aspden and Daniel Packer, of, in, and to the same: To have and to hold the said messuages, lands, lots, tenements, hereditaments, and premises hereby given and granted, unto the said Matthias Aspden and James Hartley, their heirs and assigns, to and for the only proper use and behoof of them, the said Matthias Aspden and James Hartley, their heirs and assigns, for ever; and the said Rebecca Aspden for herself, her heirs, executors, and administrators, and the said Daniel Packer for himself, his heirs, executors, and administrators, do severally and respectively covenant, promise, grant, and agree, to and with the said Matthias Aspden and James Hartley, their heirs and assigns, by these presents, that they, the said Rebecca Aspden and Daniel Packer, and their several and respective heirs, shall and will, at any time or times hereafter, upon the reasonable request, and at the proper costs and charges in the law of the said Matthias Aspden and James Hartley, or either of them, their or either of their heirs or assigns, make, do, execute, and acknowledge all or any such further and other deed or deeds, devise or devises, and assurances in the law, for the further and more perfect conveying and assuring the premises hereby given and granted unto the said Matthias Aspden and James Hartley, their heirs and assigns, as by them, or either of them, their or either of their heirs or assigns, or their counsel, learned in the law, shall be reasonably advised or required.

In witness whereof the said Rebecca Aspden and Daniel Packer have hereunto set their hands and seals, the tenth day of May, in the year of our Lord one thousand seven hundred and sixty-eight.

her
REBECCA ⋉ ASPDEN, [L. S.]
mark.

DANIEL PACKER. [L. S.]

Sealed and delivered in the presence of us,
ROBERT FRANCIS GOAD,
WM. CLARK.

The tenth day of May, in the year of our Lord one thousand seven hundred and sixty-eight, before me, James Humphreys, esq., one of his majesty's justices of the peace for the city and county of Philadelphia, personally appeared the above named Rebecca Aspden and Daniel Packer, and acknowledged the above written deed poll to be their several and respective act and deed, and desired the same may be recorded as their several and respective act and deed.

Witness my hand and seal the day and year above said.

[L. S.] JAMES HUMPHREYS.

Recorded 28th May, 1768.

PHILADELPHIA, *ss:*

I, George W. Colladay, recorder of deeds, &c., for the city and county of Philadelphia, do certify, that the above and foregoing is a true copy of a certain instrument of writing remaining of record in my office, recorded in deed book I, No. 3, page 476, &c.

Witness my hand and seal, this 20th day of September, A. D. 1849.

[L. S.]

GEORGE W. COLLADAY,
Recorder.

II. *Deed—Jeremiah Carter and others to Matthias Aspden.*

This indenture, made the thirtieth day of May, in the year of our Lord one thousand seven hundred and sixty-eight, between Jeremiah Carter, of Gloucester county, in the western division of the province of New Jersey, yeoman; Daniel Carter, of the same place, yeoman; Jonas Kettle, of the said county, yeoman, and Sarah, his wife; Martha Carter, of the said county, spinster; Susanna Carter, of the same place, spinster; (the said Jeremiah Carter, Daniel Carter, Sarah Kettel, Martha Carter, and Susanna Carter, being the children of John Carter, late of Gloucester county aforesaid, yeoman, deceased, by Sarah, his wife, who was the daughter of Rebecca Budden, formerly Rebecca Carter, late of Burlington county, widow; the said Rebecca being the daughter of Daniel Jones, late of the city of Philadelphia, in the province of Pennsylvania, cordwainer, deceased;) Thomas Joice, of Burlington county, in the western division of the said province of New Jersey, yeoman; Emanuel Stratton, of Burlington county aforesaid, yeoman, and Mary, his wife; (the said Mary being the daughter of the said Thomas Joice by Martha, his wife, who was another daughter of the said Rebecca (Budden;) Rebecca Wiltshire, of the county of Gloucester aforesaid, widow; (she being the daughter of Mary Pusly, late of Gloucester aforesaid, widow, who was another daughter of the said Rebecca Budden;) Elinor Packer, of Gloucester aforesaid, (widow of Samuel Packer, late of the said county of Gloucester, yeoman, deceased, who was the son of the above named Rebecca Budden by a former husband;) William Louper, of Gloucester county aforesaid, yeoman, and Parthenia, his wife; Rebecca Coleworth,

of the same place, widow; Samuel Burton, of the said county of Gloucester, yeoman, and Rhoda, his wife; James Duffield, of Gloucester county aforesaid, yeoman, and Ruth, his wife; (the said Parthenia, Rebecca, Rhoda, and Ruth being all the children of the said Samuel Packer, deceased); George Hammack, of Gloucester county aforesaid, yeoman; Samuel Hammack, of the said county, yeoman; George Hammack, junior, of the same place, yeoman; Thomas Hammack, of the said county of Gloucester, yeoman; Thomas Mannerin, of the said county, yeoman, and Eudocia, his wife; and William Whitten, of the same place, yeoman, and Rhoda, his wife, (the first-named George Hammack being the husband of Rhoda, formerly Rhoda Packer, who was the daughter of the said Rebecca Budden by her former husband; and the said Samuel Hammack, the said George Hammack, junior, the said Thomas Hammack, the said Eudocia Mannerin, and the said Rhoda Whitten, being the children of the said first named George Hammack, by the said Rhoda, his wife,) of the one part, and Matthias Aspden, of the city of Philadelphia, in the province of Pennsylvania, merchant, of the other part, witnesseth: That the said Jeremiah Carter, Daniel Carter, Jonas Kittel and Sarah, his wife, Martha Carter, Susanna Carter, Thomas Joice, Emanuel Stratton and Mary, his wife, Rebecca Wiltshire, Elinor Packer, William Louper and Parthenia, his wife, Rebecca Coleworth, Samuel Burton and Rhoda, his wife, James Duffield and Ruth, his wife, George Hammack, Samuel Hammack, George Hammack, junior, Thomas Hammack, Thomas Mannerin and Eudocia, his wife, and William Whitten and Rhoda, his wife, as well for and in consideration of the sum of five pounds, lawful money of Pennsylvania, unto them in hand well and truly paid by the said Matthias Aspden, at and before the ensealing and delivery hereof, the receipt of which they do hereby acknowledge, and thereof, and of every part thereof, do forever exonerate, acquit, and discharge the said Matthias Aspden, his heirs, executors, administrators, by these presents, as for divers other good and valuable considerations them thereunto specially moving, have, and each and every and either of them hath, granted, bargained, sold, aliened, enfeoffed, released, and confirmed, and by these presents do, and each and every and either of them doth, grant, bargain, sell, alien, enfeoff, release, and confirm, unto Matthias Aspden, his heirs and assigns, all that, and those, and every of those, the lots, lands, and tenements, hereditaments, real estate, and premises whereof the said Daniel Jones, the said Rebecca Budden, formerly Rebecca Carter, the said Martha Joice, the said Mary Pusly, the said Samuel Packer, and the said Rebecca Packer, or either of them, were, in their lifetime, at the time of their decease, seized or possessed, or which the said Jeremiah Carter, Daniel Carter, Jonas Kittel and Sarah, his wife, Martha Carter, Susanna Carter, Thomas Joice, Emanuel Stratton and Mary, his wife, Rebecca Wiltshire, Elinor Packer, William Louper and Parthenia, his wife, Rebecca Coleworth, Samuel Burton and Rhoda, his wife, James

Duffield and Ruth, his wife, George Hammack, Samuel Hammack, junior, Thomas Hammack, Thomas Mannerin and Eudocia, his wife, and William Whitton and Rhoda, his wife, each or either of them now have, or are any ways entitled unto, situate, lying, and being in the city of Philadelphia, the county of Philadelphia, or elsewhere in the said province of Pennsylvania; together, also, with all and singular the buildings, improvements, ways, waters, water-courses, rights, members, liberties, privileges, hereditaments, and appurtenances whatsoever unto the said lots, lands, tenements, hereditaments, real estate, and premises belonging or in anywise appertaining; and the reversion and reversions, remainder and remainders, rents, issues, and profits thereof, and also all the estate and estates, part and parts, purpart and purparts, share and shares, dividend and dividends, rights, title, and interest, use, possession, property, claim, and demand whatsoever, in law, equity, or otherwise, howsoever of them, the said Jeremiah Carter, Daniel Carter, Jonas Kittel and Sarah, his wife, Martha Carter, Susanna Carter, Thomas Joice, Emanuel Stratton and Mary, his wife, Rebecca Wiltshire, Elinor Packer, William Louper and Parthenia, his wife, Rebecca Coleworth, Samuel Burton and Rhoda, his wife, James Duffield and Ruth, his wife, George Hammack, Samuel Hammack, George Hammack, junior, Thomas Hammack, Thomas Mannerin and Eudocia, his wife, and William Whitton and Rhoda, his wife, or each or either of them, of, into, or out of, all and singular the said lots, lands, tenements, hereditaments, real estate, and premises, and every part thereof; to have and to hold the said lots, lands, tenements, hereditaments, real estate, and all other the premises hereby granted, bargained, and sold, or mentioned, or intended so to be, with their and every of their appurtenances, unto the said Matthias Aspden, his heirs and assigns, to the only proper use, benefit, and behoof of the said Matthias Aspden, his heirs and assigns, forever, under the proprietary quit rent now due, and hereafter to grow due, for the hereby granted premises, unto the chief lord or lords of the fee thereof. And the said Jeremiah Carter, for himself and his heirs only, and the said Daniel Carter, for himself and his heirs only, and the said Jonas Kittel, for himself and for the said Sarah, and for his and her heirs only, and the said Martha Carter, for herself and her heirs only, and the said Susanna Carter, for herself and her heirs only, and the said Thomas Joice, for himself and his heirs only, and the said Emanuel Stratton, for himself and for the said Mary, his wife, and for his and her heirs only, and the said Rebecca Wiltshire, for herself and her heirs only, and the said Elinor Packer, for herself and her heirs only, and the said William Louper, for himself and for the said Parthenia, his wife, and for his and her heirs only, and the said Rebecca Coleworth, for herself and her heirs only, and the said Samuel Burton, for himself and for the said Rhoda, his wife, and for his and her heirs only, and the said James Duffield, for himself and for the said Ruth, his wife, and for his and her heirs only, and the said George Hammack, for himself and his heirs only, and the said Samuel Hammack, for

himself and his heirs only, and the said George Hammack, junior, for himself and his heirs only, and the said Thomas Hammack, for himself and his heirs only, and the said Thomas Mannerin, for himself and for the said Eudocia, his wife, and for his and her heirs only, and the said William Whitton, for himself and for the said Rhoda, his wife, and for his and her heirs only, do, and each of them doth, covenant, promise, grant, and agree, to and with the said Matthias Aspden, his heirs and assigns, by these presents, in the manner following, that is to say, that they, the said Jeremiah Carter, Daniel Carter, Jonas Kittel and Sarah, his wife, Martha Carter, Susanna Carter, Thomas Joice, Emanuel Stratton and Mary, his wife, Rebecca Wiltshire, Elinor Packer, William Louper and Parthenia, his wife, Rebecca Coleworth, Samuel Burton and Rhoda, his wife, James Duffield and Ruth, his wife, George Hammack, Samuel Hammack, George Hammack, junior, Thomas Hammack, Thomas Mannerin and Eudocia, his wife, William Whitton and Rhoda, his wife, and their heirs respectively, the aforesaid lots, lands, tenements, hereditaments, real estate, and all other the premises hereby granted, bargained, and sold, or mentioned, or intended so to be, with their and every of their appurtenances, unto the said Matthias Aspden, his heirs and assigns, against them, the said Jeremiah Carter, Daniel Carter, Jonas Kittel and Sarah, his wife, Martha Carter, Susanna Carter, Thomas Joice, Emanuel Stratton and Mary, his wife, Rebecca Wiltshire, Elinor Packer, William Louper and Parthenia, his wife, Rebecca Coleworth, Samuel Burton and Rhoda, his wife, James Duffield and Ruth, his wife, George Hammack, Samuel Hammack, George Hammack, junior, Thomas Hammack, Thomas Mannerin and Eudocia, his wife, and William Whitton and Rhoda, his wife, and their heirs respectively, shall and will warrant and forever defend by these presents. In witness whereof the said parties to these presents have interchangeably set their hands and seals hereunto, dated the day and year first above written.

Rebecca Wiltshire, her mark, X [L. S.]
Ellonor Packer, her mark, E [L. S.]
[L. S.]
[L. S.]
Rebecca Codwell, [L. S.]
Samuel Borton, [L. S.]
Rhoda Borton, [L. S.]
James Duffield, his mark, X [L. S.]
Ruth Duffield, [L. S.]
George Hammack, jr., his mark, G [L. S.]
[L. S.]
[L. S.]
Thomas Hammitt, [L. S.]
[L. S.]
Eudosia Mannory, her mark, X [L. S.]
William Whitten, [L. S.]
Rhoda Whitten, [L. S.]

Jeremiah Carter, [L. S.]
Daniel Carter, [L. S.]
Jonas Cattell, [L. S.]
Sarah Kettle, her mark, S [L. S.]
Martha Carter, her mark, XX [L. S.]
Susanna Carter, [L. S.]
Thomas Joyce, [L. S.]
Emanuel Stratton, [L. S.]
Mary Stratton, her mark, X [L. S.]

Sealed and delivered in the presence of us—
BENJAMIN HARTLEY,
EMANUEL HYAMS.

June 11th, 1768. Rhoda Borton and Ruth Duffield ackn'd J. H.
June 18th, 1768. Eudosia Mannerin and William Whitten, and Rhoda, his wife.

(Endorsed on the back.)

Received the day of the date of the within written indenture, of the therein named Matthias Aspden, the sum of five pounds being the consideration money therein mentioned.

We say received per us.

Witness present—
Jeremiah Carter,
Daniel Carter,
Jonas Cattell,
Sarah Kettle, her mark, S
Martha Carter, her mark, XX
Joanna Carter,
Thomas Joyce,
Emanuel Stratton,
Mary Stratton, her mark, X
Rebecca Wiltshire, her mark, X
Elenor Packer, her mark, E
Rebecca Codwell,
Samuel Borton,
Rhoda Borton,
James Duffield, his mark, T
Ruth Duffield,
George Hammitt, his mark, C
Thomas Hammitt,
Eudosia Mannory, her mark, X
William Whitten,
Rhoda Whitten.

IV. *Revocation by D. Jones.*

I, Daniel Jones, of the county of Loudon, in the colony of Virginia, having, without proper consideration, given to Samuel Mead, of the

province of New Jersey, a kind of power or letter of attorney, in order to recover a right by me claimed in this city of Philadelphia.

Now, these are to certify whom it may concern, that I do hereby revoke the said letter of attorney, and declare the same to be hereafter void to all intents and purposes, and that the said Mead has no longer, by my consent, any power to act in any case in my behalf.

In witness whereof I have hereunto set my hand and seal this twenty-ninth day of June, one thousand seven hundred and sixty-eight (1768.)

DANIEL JONES. [SEAL.]

Sealed and acknowledged in presence of—
JOS. JANNEY,
W. HOUGH.

(Endorsed.)

DANIEL JONES, certifyc.
Potomack, June 29th, 1768.

V. *Deed—Clymer and others to Bowes.*

This indenture, made the thirtieth day of November, in the year of our Lord one thousand seven hundred and forty-five, between Christopher Clymer, of the city and county of Philadelphia, in the province of Pennsylvania, mariner, John Kinsey, Thomas Leech, John Watson, Thomas Chandler, and John Wright, trustees of the general loan office of the province aforesaid, of the one part, and Frances Bowes, of the same city, gent., of the other part: Whereas, William Penn, esq., late proprietary and governor of the province aforesaid, by his commissioners of property, and letters patent under the seal of the said province, dated the third day of April, one thousand six hundred and eighty-nine, did grant and confirm unto Griffith Jones, his heirs and assigns forever, a certain lot of land on and before the bank of the river Delaware, in the city aforesaid, opposite to another lot of land, theretofore laid out to the said Griffith Jones, in right of his purchase of five thousand acres of land, containing in breadth one hundred and two feet, and in length two hundred and fifty feet, bounded northward and southward with lots then vacant, westward with Front street, and eastward with Delaware river at the extent of two hundred and fifty feet, to hold and enjoy the said lot to the said Griffith Jones, his heirs and assigns forever, yielding and paying therefor, during the space of fifty-one years from thence next ensuing, unto the said William Penn, his heirs and successors, ten English silver shillings, or value thereof in coin current; and that at the expiration of the said term the yearly value of the said lot and the buildings thereon erected should be reasonably appraised by two men to be mutually chosen, one-third part of which valuation or appraisement the said Griffith Jones, his heirs and assigns, should thereafter pay unto the said William Penn, his heirs

and successors yearly forever; and, further, that the wharf and keys erected on the said lot should at all times thereafter be lawful wharves and keys for shipping, and unlading all goods and merchandise, with a proviso therein contained, that the said Griffith Jones, his heirs and assigns, should leave and make a sufficient cart-way under and along the front of the said bank thirty feet wide for the common use of all persons (since called King street;) and also a further provision, that if it should happen part or all of the buildings and improvements erected and made on the premises should be destroyed by inundation, fire, or other act of Providence after the valuation and appraisement, the said Griffith Jones, his heirs and assigns, shall be proportionably considered as in and by the said patent amongst other things more fully appears; and whereas the aforesaid Griffith Jones, by virtue of the premises, being seized of the lot or piece of ground aforesaid, by his indenture, dated the twenty-fifth of January, one thousand six hundred and eighty-nine, did grant, bargain, and sell, unto Wm. Salway, his heirs and assigns, a part of the said lot, containing in breadth twenty-five feet on the Front street aforesaid, and thence extending eastward two hundred and fifty feet, under a proportional part of the quit-rent, and subject to the several covenants and agreements, provisos, limitations in the patent aforesaid mentioned, yielding therefor to the said Griffith Jones, his heirs and assigns, forty-five shillings yearly forever; and whereas the said Griffith Jones, by his other indentures, dated the first day of July, one thousand six hundred and ninety-three, did also bargain and sell, unto James Stanfield, his heirs and assigns, the other part of the lot aforesaid, containing in breadth twenty-two feet on the Front street aforesaid, and thence extending eastward two hundred and fifty feet, under a proportional part of the quit-rent, and subject to provisos, limitations, covenants, and agreements in the patent aforesaid mentioned, yielding therefor, to the said Griffith Jones, his heirs and assigns, the rent of three pounds six shillings forever; and whereas the said Griffith Jones, by his other indentures, dated the twenty-fifth of January, one thousand six hundred and ninety-one, did also grant, bargain, and sell, unto John Busby, his heirs and assigns, for ever, other part of the lot aforesaid, containing in breadth, on the said Front street, fifteen feet, and thence extending eastward two hundred and fifty feet, under a proportioual part of the quit-rent, and subject to the several provisos, limitations, conditions, and agreements, in the said patent mentioned, yielding therefor to the said Griffith Jones, his heirs and assigns, forty-five shillings yearly forever; and whereas the said Griffith Jones, by his other indentures, dated the 23d day of January, in the year last aforesaid, did also grant, bargain, and sell, unto William Davis, his heirs and assigns forever, other part of the lot aforesaid, also containing, in breadth, on the said Front street, fifteen feet, and extending eastward two hundred and fifty feet, under the proportional part of the quit-rent, and subject to the said several provisos, limitations, covenants, and agreements, in the said patent mentioned, yielding therefor to the said Griffifth Jones, his heirs and assigns, forty-five shillings yearly forever; and

whereas the said Griffith Jones, by his other indenture, dated the third day of February, one thousand seven hundred and eighty-nine, did also grant, bargain, and sell, unto Owen Griffiths, the residue of the said lot, containing, in breadth, on the said Front street, twenty feet, and extending thence eastward two hundred and fifty feet, under a proportional part of the quit-rent, and subject to the said several provisos, limitations, covenants, and agreements, in the said patent mentioned, yielding therefor to the said Griffith Jones, his heirs and assigns, the rent of three pounds ten shillings yearly forever, as by the said several in part recited indenture s may appear; and whereas afterwards Abraham Bickley, late of Philadelphia aforesaid, deceased, by divers mesne conveyances, under the aforesaid William Salway, James Hanfield, John Busby, William Davis, and Owen Griffiths, became seized of their estates in the premises, charged with rents, limitations, provisos, covenants, and agreements, aforesaid, and being thereof so seized by divers other conveyances under the said Griffith Jones, purchased the aforesaid several ground rents reserved by the aforesaid Griffith Jones, and all his interest and estate in the premises, by means whereof the said several ground rents so reserved became extinct; and whereas the said Abraham Bickley, by virtue of the premises, or some other good conveyances in the law, being seized of the lot of land herein first described, by his indentures of lease and release, bearing date respectively the twenty-seventh and twenty-eighth days of June, in the year one thou, sand seven hundred and twenty, for the consideration therein mentioned, did grant, bargain, and sell, unto Richard Clymer, father of the aforesaid Christopher Clymer, a certain parcel of land, part of the lot first herein described. containing, in breadth, forty-two feet, and extending in length from the east side of King's street aforesaid into the river Delaware, to the extent of two hundred and fifty feet from the east side of Front street aforesaid, bounded eastward with the said river at the said extent, southward with the other land at the said Abraham Bickley's, set forth for and as part of the fourteen foot alley, thereby agreed by the said parties to be and remain for their mutual use and benefit, westward with King's street aforesaid, and northward with a lot then Benjamin Paschall's, now Thos. Say's, together with the free right, liberty, and privileges, of a certain other parcel of land set forth for and as part of the said fourteen foot alley, to be left open forever for the common use and benefit of the said Abraham Bickley and Richard Clymer, their heirs and assigns, containing in breadth seven feet and nine inches, and extending in length from the east side of King's street aforesaid into the said river, to the extent of two hundred and fifty feet from the east side of Front street aforesaid, bounded eastward with the said river at the said extent, southward with other land of the said Abraham Bickley, westward with King's street aforesaid, and northward with other part of the first described parcel of land, set forth for and as part of the said fourteen foot alley, together with free ingress, egress, and regress in, by, and through the same alley and the appurtenances, excepting and always reserving to the said Abraham Bickley, his heirs

and assigns, the free right, liberty, and privilege of a certain piece of the said first described parcel of land of six feet and three inches in breadth, and in length from the east side of King's street into the river the same extent in the whole lot, bounded eastward with the said river at the said extent, southward with the second parcel of land in the last mentioned deed, described westward with King's street aforesaid, and northward with the land in the said deed first described, together with ingress, egress, and regress in, by, and through the same last described parcel of land set forth for and as other part of the said fourteen foot alley, to be left open forever for the common use aforesaid. To hold the said land and premises, except as before is excepted, to him, the said Richard Clymer, his heirs and assigns forever, as by the said indenture, recorded at Philadelphia in book ——, may appear; and whereas the said Richard Clymer afterwards, by his indenture dated the twenty-ninth day of June, in the year of our Lord one thousand seven hundred and twenty, for the considerations therein mentioned, did give, grant, and confirm unto the said Abraham Bickley an annuity or yearly rent-charge of nineteen pounds of lawful silver money of America, issuing out of the lands, hereditaments, and premises, granted by the said Abraham Bickley to the said Richard Clymer as aforesaid, to hold and enjoy the said annuity unto the said Abraham Bickley, his heirs and assigns forever, with covenants on any default in the payment thereof to forfeit the penalty and to be subject to the distress and entry into the lands, hereditaments, and premises so granted, in such manner and form as by the said indenture, recorded at Philadelphia in book ——, may appear; and whereas the said Richard Clymer afterwards, by his indenture dated the eighth day of October, in the year one thousand seven hundred and twenty-nine, for the consideration of one hundred and forty-eight pounds, current money of Pennsylvania aforesaid, to him paid by the then trustees of the general loan office, did bargain and sell the said piece of land by him purchased of the said Abraham Bickley as aforesaid, with the two messuages thereon then erected, with all and singular the appurtenances, to hold unto them, the said trustees, their successors and assigns forever, on condition, nevertheless, that if the said Richard Clymer, his heirs, executors, and administrators, or assigns, should repay the consideration money aforesaid, with the interest thereof, at certain days and times in the said indenture mentioned, that then the said indenture should be void, as thereby will appear; and whereas the aforesaid Richard Clymer afterwards made his last will and testament in writing, duly executed, bearing date the eighth day of July, one thousand seven hundred and thirty-four, and thereby did give and devise, amongst other things, unto the aforesaid Christopher Clymer, all that his dwelling-house and northernmost moiety of the lot, wharf, and stores which he purchased of the said Abraham Bickley as aforesaid, to hold to him, the said Christopher, his heirs and assigns forever, and afterwards died seized of his estate in the premises, great part of the mortgage money aforesaid remaining unpaid at the days and times in which the same ought to have been paid. Now, this indenture

witnesseth, that the said Christopher Clymer, for and in consideration of the sum of six hundred and ninety-four pounds, in current money aforesaid, to him in hand paid by the said Frances Bowes and the present trustees of the general loan office, in consideration tion of the sum of one hundred and six pounds like money, it being the moiety of the principal and interest due on the mortgage aforesaid, to them in hand also paid by the said Frances Bowes, the receipt whereof they, the said parties, do hereby respectively acknowledge, and thereof do, and every of them doth, therefrom respectively release and discharge the said Frances Bowes, his executors and administrators forever, have granted, bargained, sold, released, and confirmed, and by these presents they, the said Christopher Clymer and the trustees aforesaid, do and each of them doth grant, bargain, sell, release, and confirm, unto the said Frances Bowes, and to his heirs and assigns forever, all that the messuage and piece of ground last mentioned, it being the northernmost moiety of the piece of ground purchased of the said Abraham Bickley as aforesaid, containing in breadth on King's street aforesaid twenty-one feet, and extending from thence into the river Delaware the extent aforesaid, together with all the wharves, stores, edifices, buildings, alleys, passages, lights, easement, profits, commodities, rights, members, hereditaments, and appurtenances whatsoever to the same belonging, or in any wise appertaining; and all the estate, right, title, interest, property, claim, and demand whatsoever, both in law or in equity, of them, the said Christopher Clymer and the said trustees in, to, or out of the premises, and every part and parcel thereof, with the reversions and remainders thereof; to have and to hold the said messuage, land, hereditaments, and all and singular the before granted premises, unto the said Frances Bowes, his heirs and assigns for ever, to the use of the said Frances Bowes, his heirs and assigns forever, under a proportional part of the rents and reservations in the patent aforesaid mentioned and reserved, as the same shall hereafter be ascertained to become due and payable to the present proprietors, their heirs and assigns, and subject to the several provisos, limitations, covenants, and agreements therein contained; and also the moiety or half part of the rent charge aforesaid, as the same shall hereafter become due and payable to the devisees of the said Abraham Bickley, now deceased, their heirs and assigns; and the aforesaid Christopher Clymer, for himself, his heirs, executors, and administrators, doth covenant, and promise, and grant, to and with the said Francis Bowes, his heirs and assigns, in manner and form following, that is to say, that he, the said Christopher Clymer, hath in himself good right, full power, and lawful and absolute authority, to grant, bargain, and sell the said messuage, land, hereditaments, and premises, before granted, with their appurtenances, unto the said Francis Bowes, his heirs and assigns, in manner and form aforesaid; and also that the said Christopher Clymer and his heirs, the said messuage, land, hereditaments and premises before granted, with the appurtenances, unto him, the said Francis Bowes, his heirs and assigns, against the lawful claim or demand of any per-

son or persons whatsoever, will warrant and forever defend the proprietors aforesaid, their heirs and assigns, by virtue of the patent aforesaid, and the devisees of the said Abraham Bickley, their heirs and assigns, by virtue of the rent-charge aforesaid, as the same shall hereafter arise and become due always excepted; and, further, that the said Francis Bowes shall, or lawfully may, peaceably and quietly have, hold, and enjoy the said messuage, land, hereditaments, and premises before granted, with the appurtenances, and that free and clear, and freely and clearly acquitted, exonerated, and discharged of and from all former and other grants, bargains, sales, leases, jointures, dowers, entails, judgments, executions, and encumbrances whatsoever, except as before is excepted; and, lastly, that the said Christopher Clymer, his heirs and assigns, shall and will, at the reasonable request, costs, and charges in law of the said Francis Bowes, his heirs or assigns, make, do, execute, and perform all such other and further act and acts, deed and deeds, conveyance and conveyances whatsoever, for the better and more perfect conveying and assuring the messuage, land, hereditaments and premises herein before granted, with their and every of their appurtenances, unto the said Francis Bowes, his heirs and assigns, as by the said Francis Bowes, his heirs or assigns, or his or their council learned in the law, shall be devised, advised, and required.

In witness thereof the said parties have hereunto set their hands and seals, dated the day and the year first above written.

THOMAS CHANDLER, [SEAL.]
JOHN WATSON, [SEAL.]
THOMAS LEECH, [SEAL.]
JOHN KINSEY, [SEAL.]
CHRIS. CLYMER. [SEAL.]

Sealed and delivered in the presence of us,
JOHN HOWELL, } By Chris. Clymer.
PETER BARD, }

Sealed and delivered by the within named,
JOHN KINSEY,
THOMAS LEECH,
JOHN WATSON, and
THOMAS CHANDLER,

In the presence of,
JOHN KINSEY, JR., and
JOSEPH GALLOWAY.

PHILADELPHIA, *December 4th*, 1745.

Then received of Francis Bowies, six hundred and ninety-four pounds, in full of the consideration money within mentioned, for me.
CHRIS'R. CLYMER.

The 28th day of May, 1770, before me, Samuel Rhoads, esquire,

one of the justices of the city of Philadelphia, came Joseph Galloway, of the city of Philadelphia, gentleman, and upon his solemn affirmation, according to law, did declare and say, that he was personally present, and did see the within named John Kinsey, Thomas Leech, John Watson, and Thomas Chandler seal, and as their deed deliver, the within written indenture; and that his, this affirmant's, name thereon endorsed as a witness thereof, is of his own handwriting.

In witness whereof I have hereunto set my hand and seal, the day and the year above said.

SAMUEL RHOADS. [SEAL.]

Recorded in the office for recording deeds, &c., for the city and county of Philadelphia, in deed book G. W. R., No. 17, page 619, &c.

Witness my hand and seal of office, July 26th, A. D. 1827.

[SEAL.] GEO. W. RITER.
Recorder.

Deed—Christopher Clymer, and the trustees of the general loan office of Pennsylvaina, to Francis Bowes.

Got this proved for Matthias Aspden.

VI. *Deed of Thomas Lawrence to Matthias Aspden.*

This indenture, made the twenty-third day of the month called May, in the year of our Lord one thousand seven hundred and fifty, between Thomas Lawrence, Peter Delage, and Andrew Read, surviving executors, and Rachel Bowes, executrix of the last will and testament of Francis Bowes, late of Philadelphia, deceased, of the one part, and Matthias Aspden, of the city of Philadelphia aforesaid, merchant, of the other part. Whereas Christopher Clymer, late of the city of Philadelphia aforesaid, mariner, John Kinsey, Thomas Leech, John Watson, Thomas Chandler, and John Wright, trustees of the general loan office of Pennsylvania, by their indenture of bargain and sale, bearing date the thirteth day of November, in the year one thousand seven hundred and forty-five, did grant and confirm unto the said Francis Bowes, in his lifetime, the northermost moiety of a certain messuage and lot of land, formerly belonging to Richard Clymer, deceased; the said moiety being situate in Philadelphia aforesaid, on the east side of King's street, containing in breadth on the said street twenty-one feet, and extending thence into the river Delaware two hundred and forty feet; to hold to him these, and Francis Bowes, his heirs and assigns forever, under a proportional part of the quit-rents, other rents, limitations, provisos, and covenants, under which the same were held as by the said indenture may appear. And whereas the said Francis Bowes, by virtue of the premises became seized of the said messuage, lot of land, and premises in fee. And being so seized, made his last will and testament in writing, bearing date the twenty-seventh day of January, in the year one thousand seven hun-

dred and forty-seven, and thereby did authorize and empower these said executors and executrix aforesaid, to make sale of the messuage, lot of land, hereditaments, and premises in fee, as by the said last will and testament, since his decease, duly proved and remaining in the register's general's office at Philadelphia may appear. Now, this indenture witnesseth, that the aforesaid Thomas Lawrence, Peter Delage, and Andrew Read, executors, and Rachel Bowes, executrix, in pursuance of the said will and the power thereby given, and in consideration of the sum of eight hundred pounds to them in hand paid, the receipt whereof is hereby acknowledged, and thereof and every part thereof, they, the said executors, and these aforesaid executrix, do release, exonerate, and discharge the said Matthias Aspden, his executors and administrators forever, have granted, bargained, sold, released, and confirmed, and by these premises do grant, bargain, sell, and release, and confirm, unto the aforesaid Matthias Aspden, his heirs and administrators forever, all that messuage and northermost moiety of the lot of land, hereditaments, and premises hereinbefore devised, together with all and singular the houses, edifices, buildings, rights, easements, ways, alleys, hereditaments, and appurtenances whatsoever hereunto belonging, or in anywise appertaining, and all the estate, right, title, interest, property, claim, and demand whatsoever, late of the said Francis Bowes, of, in, and to the said messuage and piece of ground, hereditaments and premises, hereby granted, and the reversions and remainders thereof; to have and to hold the said messuage and piece of ground, hereditaments and premises hereby granted to the said Matthias Aspden, his heirs and assigns forever, under the rents, reservations, provisos, and limitations in the said deed from the said Richard Clymer and the aforesaid John Kinsey, Thomas Leech, John Watson, Thomas Chandler, and John Wright, to the said Francis Bowes, expressed and contained; and also subject to a moiety of a rent charge of nineteen pounds lawful money of the province of Pennsylvania, chargeable to the heirs or devisees of Abraham Bickley or their assigns, with which the said messuages and lot of ground stand charged forever, as the same shall hereafter become due. And the said Thomas Lawrence, Peter Delage, Andrew Read, and Rachel Bowes, do severally, but not jointly, nor one of them for the acts of the other of them, covenant, promise, grant, and agree, to and with the said Matthias Aspden, his heirs and assigns, and do and with every of them in manner and form following, (that is to say,) that for and notwithstanding any act, matter, or thing by them, the said John Kinsey, Thomas Lawrence, Peter Delage, Andrew Read, and Rachel Bowes, done or wittingly suffered to the contrary, that the said Thomas Lawrence, Peter Delage, Andrew Read, and Rachel Bowes, have in themselves good right, full powers, and lawful and absolute authority, to grant, bargain, and sell the messuage and lot, hereditaments and premises, hereby granted unto the aforesaid Matthias Aspden, his heirs and assigns forever, in manner and form aforesaid. And further, that for and notwithstanding any such act, matter, or thing by them done or wittingly to the contrary,

he, the said Matthias Aspden, his heirs and assigns, shall or lawfully may have, hold, occupy, possess, and enjoy the said messuage, lot of land, hereditaments, premises hereby granted, peaceably and quietly forever; and that free and clear, and freely and clearly, exonerated and discharged of and from all further and other grants, bargains, sales, leases, jointures, dowers, executions, and incumbrances whatsoever, the rents, provisos, and limitations aforesaid excepted; and, lastly, that the aforesaid Thomas Lawrence, Peter Delage, Andrew Read, and Rachel Bowes, at the reasonable request, cost and charges in the law of the said Matthias Aspden, his heirs and assigns, shall and will make, acknowledge, do, execute, and perform all such further and other act and acts, deed and deeds, devise and devises for the further and better conveying the said messuage and lot of ground hereinbefore granted to the said Matthias Aspden, his heirs and assigns forever; so always that the same containing no further or other conveyance than is herein contained. In witness whereof the said Thomas Lawrence, Peter Delage, Andrew Read, and Rachel Bowes have hereunto set their hands and seals. Dated the day and year first above written.

THOMAS LAWRENCE, [L. S.]
PETER DELAGE, [L. S.]
ANDREW READ, [L. S.]
RACHEL BOWES. [L. S.]

Received, the day of the date of the within written instrument, of the within named Matthias Aspden, the sum of eight hundred pounds, being the consideration money in full.

THOMAS LAWRENCE,
PETER DELAGE,
ANDREW READ,
RACHEL BOWES.

Witness:
ROBERT MONTGOMERY,
ROBERT OWEN.

It is to be remembered that on the seventeenth day of October, A. D. 1750, personally appeared before Samuel Hasell, esq., one of the justices of the peace, &c., the within named Thomas Lawrence, Peter Delage, Andrew Read, and Rachel Bowes, and did acknowledge the within written instrument, whereof I have here set my hand and seal, dated the day of the year above written.

SAMUEL HASELL. [SEAL.]

Entered in the office for the recording of deeds for the city and county of Philadelphia, in book H, vol. i, page 142, &c., October 26th, 1750. Witness my hand and seal of my office.

C. BROCDEN. [SEAL.]

Thomas Lawrence and other executors of the last will and testa-

ment of Francis Bowes, deceased, to Matthias Aspden, an indenture of bargain and sale of a messuage and lot of ground in the city of Philadelphia.

Sealed and delivered in the presence of us,

[The words "John Kinsey," the several plans being before erased, and the words "Rachel Bowes" between the twelfth and thirteenth lines being first interlined.]

ROBERT MONTGOMERIE,
ROBERT OWEN.

VII. *Deed—Trustees of University to Joseph Mercier.*

To all people to whom these presents shall come, the trustees of the University of the State of Pennsylvania send greeting: Know ye, that the said trustees of the University of the State of Pennsylvania, for and in consideration of the sum of nineteen hundred and twenty-three pounds nineteen shillings and eight pence public securities, and nine hundred pounds lawful money of the said State of Pennsylvania, to them in hand paid by Joseph Mercier, of the city of Philadelphia, merchant, at or before the sealing and delivery hereof, the receipt whereof is hereby acknowledged, have granted, bargained, sold, alienated, released, and confirmed, and by the presents do grant, bargain, sell, alien, release, and confirm, unto the said Joseph Mercier, his heirs and assigns, all that brick messuage or tenement, and lot or piece of ground and wharf thereon erected, situate on the east side of Water street, between High street and Mulberry street, in the city of Philadelphia aforesaid, containing, in breadth, on the said Water street, about twenty-one feet, and extending into the river Delaware; bounded northwardly by ground of , southwardly by ground of , eastward by the river Delaware aforesaid, and westward by Water street aforesaid, (being the same estate which was forfeited to the Commonwealth of Pennsylvania by the attainder of Matthias Aspden, and which was confirmed to the said trustees of the University of the State of Pennsylvania by an act of [the] Pennsylvania assembly, passed at Philadelphia the twenty-second day of September, 1785, entitled "An act to confirm to the trustees of the University of the State of Pennsylvania divers estates therein enumerated for the support of the said seminary, and for enabling the board of trustees of the said University to choose a new trustee in the stead of any of their number (not being a trustee in right of office or station) who shall be absent from the meetings of the said corporation during the space of six months;) together with all and singular other the buildings, improvements, rights, members, and appurtenances whatsoever thereunto belonging, or in anywise appertaining, and the reversions, remainders, rents, issues, and profits thereof, and all the estate, right, title, interest, property, claim, and demand whatsoever of them, the said trustees of the University of the State of Pennsylvania and their successors, of, in, and to the premises, and every part thereof, in law and equity. To

1118.

have and to hold the said described brick messuage or tenement, and lot or piece of ground and wharf thereon erected, hereditaments and premises hereby granted or mentioned, or intended so to be, with the appurtenances, unto the said Joseph Mercier, his heirs and assigns, to and for the only proper use, benefit, and behoof of him, the said Joseph Mercier, his heirs and assigns forever; under and subject, nevertheless, to the payment or extinguishment of the yearly rent charge, or sum, of nine pounds ten shillings, so as the same shall hereafter become due and payable unto Abraham Bickley, his heirs and assigns forever. And the said trustees of the University of the State of Pennsylvania, and their successors, the said brick messuage or tenement, and lot or piece of ground and wharf thereon erected, hereditaments and premises hereby granted or mentioned, or intended so to be, with the appurtenances, unto the said Joseph Mercier, his heirs and assigns, against them, the said trustees of the University of the State of Pennsylvania and their successors, and against all and every other person or persons whatsoever lawfully claiming, or to claim, by, from, or under them, shall and will (under and subject as aforesaid) well and truly warrant and forever defend by these presents.

In witness or in testimony whereof the said trustees of the University of the State of Pennsylvania have caused the common seal of their corporation to be hereunto affixed at Philadelphia, the third day of November, in the year of our Lord one thousand seven hundred and ninety-one.

Sealed and delivered in the presence of—

[SEAL.]

Attest:

EDWARD FOX, *Sec'y.*

[The word "nineteen," in the second line, written on an erasure before the seal of the corporation was affixed hereto.]

Recorded in the office for recording of deeds, &c., for the city and county of Philadelphia, in deed book No. 30, page 140, &c.

Witness my hand and seal of office, the 25th day of November, 1791.

[SEAL.] MATTHEW IRVIN, *Recorder.*

VIII. *Deed—Louisa Mercier and others to Stephen Girard.*

This indenture, made the tenth day of December, in the year of our Lord one thousand eight hundred and twenty-three, between Louisa Mercier, single woman, John H. Clause, accomptant, and Ann, his wife, and Maria Mercier, single woman, all of the city of Philadelphia, of the one part, and Stephen Girard, of the city of Philadelphia, merchant, of the other part, witnesseth: That the said Louisa Mercier, John H. Clause and Ann, his wife, and Maria Mercier, for and in consideration of the sum of seven thousand dollars, lawful money of the United States, unto them, at or before the sealing and delivery hereof, by the

said Stephen Girard well and truly paid, the receipt whereof is hereby acknowledged, have granted, bargained, and sold, aliened, enfeoffed, released, and confirmed, and by these presents do grant, bargain, and sell, alien, enfeoff, release, and confirm, unto the said Stephen Girard, and to his heirs and assigns, a certain brick messuage or tenement, wharf, and lot or piece of ground, situate on the east side of Water street, between High street and Mulberry street, in the city of Philadelphia, containing in breadth on the said Water street about twenty-one feet, and extending in length or depth into the river Delaware, bounded northward by other ground of the said Stephen Girard, eastward by the river Delaware, southward by ground late of James J. Maguire, and westward by Water street, aforesaid. It being the same premises which the trustees of the University of the State of Pennsylvania, by deed, bearing date of the third day of November, one thousand seven hundred and ninety-one, recorded at Philadelphia in Deed book No. 30, page 140, &c., granted and conveyed unto Joseph Mercier, of the city of Philadelphia, merchant, in fee, subject to the payment of the yearly rent charge or sum of nine pounds, ten shillings, to Abraham Bickley, his heirs and assigns forever: and the said Joseph Mercier died so seized of the aforesaid premises intestate, in the fever of the year one thousand seven hundred and ninety-three, as likewise his wife, leaving issue four children, namely, the said Louisa Mercier, Ann, now the wife of the said John H. Clause, and Maria Mercier, and Catherine Mercier, to whom the same descended in fee, in equal parts: and the said Catherine Mercier soon after departed this life in her minority, intestate, unmarried, and without issue, whereupon her share in the said premises became vested in her sisters, the said Louisa, Ann, and Maria, in equal parts in fee, together with all and singular other the buildings, improvements, ways, landings, landing places, rights, liberties, privileges, hereditaments, and appurtenances whatsoever thereunto belonging, or in any wise appertaining, and the reversions and remainders, rents, issues, and profits thereof, and all the estate, right, title, interest, property, claim, and demand whatsoever of them, the said Louisa Mercier, John H. Clause, and Ann, his wife, and Maria Mercier, respectively in law, equity or otherwise howsoever, of, in, and to the same, to have and to hold the said brick messuage or tenement, wharf and lot or piece of ground, hereditaments and premises, hereby granted, with the appurtenances, unto the said Stephen Girard, his heirs and assigns, to and for the only proper use and behoof of the said Stephen Girard, his heirs and assigns forever, under and subject to the payment of the aforesaid yearly rent charge or sum of nine pounds ten shillings, so as the same hereafter shall grow due and payable to the said Abraham Bickley, his heirs and assigns forever: and the said Louisa Mercier, John H. Clause, and Maria Mercier, for themselves, their heirs, executors, and administrators, respectively do covenant, promise, and agree, to and with the said Stephen Girard, his heirs and assigns, by these presents, that they, the said Louisa Mercier, John H. Clause and Ann, his wife, and Maria Mercier, and their heirs respect-

tively, the said messuage or tenement, wharf and lot or piece of ground, hereditaments and premises, hereby granted, with the appurtenances, unto the said Stephen Girard, his heirs and assigns, against them, the said Louisa Mercier, John H. Clause and Ann, his wife, and Maria Mercier, and their heirs respectively, and against all and every other person or persons whatsoever lawfully claiming or to claim by, from, or under them, or any or either of them, or under the said Joseph Mercier, deceased, shall and will warrant and forever defend by these presents.

In witness whereof the said parties have interchangeably set their hands and seals hereunto, dated the day and year first above written.

LOUISA MERCIER, [L. S.]
JOHN H. CLAUSE, [L. S.]
ANN CLAUSE, [L. S.]
MARIA MERCIER. [L. S.]

Sealed and delivered in presence of us—
PETER CHRISTIAN,
W. KLINE.

Received, the day of the date of the above written indenture, of the above named Stephen Girard, the sum of seven thousand dollars, being the full consideration money therein mentioned.

LOUISA MERCIER,
JOHN H. CLAUSE,
MARIA MERCIER.

Witness: PETER CHRISTIAN,
W. KLINE.

The tenth day of December, A. D. 1823, before me, the subscriber, one of the aldermen of the city of Philadelphia, came the above named Louisa Mercier, and John H. Clause and Ann, his wife, and Maria Mercier, and, in due form of law, acknowledged the above written indenture to be their, and each of their, act and deed, and desired the same may be recorded as such; she, the said Ann, being of full age, separately and apart from her said husband by me thereon examined, did declare and say, that she executed the said indenture voluntarily, of her own free will and accord, without any coercion or compulsion of her said husband, the contents thereof being first, by me, made known to her.

Witness my hand and seal, the day and year aforesaid.

PETER CHRISTIAN, [L. S.]
Alderman.

Recorded in the office for recording deeds, &c., for the city and county of Philadelphia, in deed book I. H., No. 9, page 452, &c.

Witness my hand and seal of office, this tenth day of December, one thousand eight hundred and twenty-three.

[L. S.] JOHN HANSON, *Recorder.*

[REC. CLX, D. T., 1851.]—70

IX. *Bond, Joseph Mercier to Samuel Magaw.*

Know all men by these presents, that I, Joseph Mercier, of the city of Philadelphia, merchant, am held and firmly bound unto Samuel Magaw, of the city aforesaid, doctor of divinity, in the sum of eighteen hundred pounds, lawful money of Pennsylvania, to be paid to the said Samuel Magaw, or his certain attorney, executors, administrators, or assigns; to which payment, well and truly to be made, I bind myself, my heirs, executors, and administrators, firmly by these presents.

Sealed with my seal, [and] dated the fourth day of November, in the year of our Lord one thousand seven hundred and ninety-one.

The condition of this obligation is such, that if the above bounden Joseph Mercier, his heirs, executors, administrators, or any of them, shall and do well and truly pay, or cause to be paid, unto the above named Samuel Magaw, his certain attorney, executors, administrators, or assigns, the just sum of nine hundred pounds, lawful money of Pennsylvania, with legal interest thereon, on the third day of November, which shall be in the year of our Lord one thousand seven hundred and ninety-two, without any fraud or further delay, then the above obligation to be void, or else to be and remain in full force and virtue.

JOSEPH MERCIER. [L. S.]

Sealed and delivered in the presence of—
HU. M'CREE,
EDWARD FOX.

On the 4th of November, 1792, received one year's interest due on the within bond.

£54.

Also one hundred and twelve pounds ten shillings of the principal.

SAMUEL MAGAW.

This bond is fully paid, partly to Dr. Magaw, and partly to me, his attorney.

W. RAWLE.

August 10, 1797.

To Jonathan D. Sergeant, attorney of the court of common pleas, at Philadelphia, in the county of Philadelphia, in the State of Pennsylvania, or to any other attorney of the said court, or of any court elsewhere.

Whereas I, Joseph Mercier, of the city of Philadelphia, merchant, by a certain obligation bearing even date herewith, do stand bound unto Samuel Magaw, of the city aforesaid, doctor of divinity, in the sum of eighteen hundred pounds, Pennsylvania currency, conditioned for the payment of nine hundred pounds, lawful money of Pennsylvania, with interest for the same; these are to desire and authorize you, or any of you, to appear for me in the said court, or elsewhere, in an

action of debt there or elsewhere brought, or to be brought, against me, at the suit of the said Samuel Magaw, executors, administrators, or assigns, on the said obligation as of last, next, or any other subsequent term, there or elsewhere to be held, and confess judgment thereupon against me for the said sum of eighteen hundred pounds, lawful money of Pennsylvania, debt, besides costs of suit, by non sum informatus nihil dicit, or otherwise, as to you shall seem meet; and for your, or any of your, so doing, this shall be your sufficient warrant.

And I do hereby, for myself, my heirs, executors, and administrators, remise, release, and for ever quit claim, unto the said Samuel Magaw, his executors, administrators, and assigns, of all and all manner of error and errors, misprisions, misentries, defects, and imperfections whatever, in the entering of the said judgment, or any process or proceedings thereon or thereto, or any wise touching or concerning the same.

In witness whereof I have hereunto set my hand and seal, the fourth day of November, in the year of our Lord one thousand seven hundred and ninety-one.

JOSEPH MERCIER. [L. S.]

Sealed and delivered in the presence of—
HU. M'CREE,
EDWARD FOX.

X. *Mortgage, Joseph Mercier to Samuel Magaw.*

This indenture, made the fourth day of November, in the year of our Lord one thousand seven hundred and ninety-one, between Joseph Mercier, of the city of Philadelphia, merchant, and Anna, his wife, of the one part, and Samuel Magaw, of the city of Philadelphia aforesaid, doctor of divinity, of the other part. Whereas the said Joseph Mercier, in and by a certain bond or obligation under hand and seal, bearing even date herewith, stands bound unto the said Samuel Magaw in the sum of eighteen hundred pounds, Pennsylvania currency, conditioned for the payment of nine hundred pounds, money aforesaid, to be paid on the third day of November next ensuing the date hereof, in one entire payment, as in and by the said recited bond or obligation, relation being thereunto had, more fully and at large appear. Now, this indenture witnesseth, that the said Joseph Mercier and Anna, his wife, for and in consideration of the aforesaid debt or principal sum of nine hundred pounds, current money of Pennsylvania as aforesaid, and for the better securing the payment, with the interest thereon, unto the said Samuel Magaw, his heirs or assigns, as of the sum of five shillings, current money of Pennsylvania aforesaid, to them in hand paid by the said Samuel Magaw, at or before the sealing and delivery hereof, the receipt whereof is hereby acknowledged, have granted, bargained, sold, released, and confirmed, and by these presents do grant, bargain, sell, release, and confirm, unto the said Samuel

Magaw, his heirs and assigns, all that brick messuage or tenement, and lot or piece of ground, and wharf thereon erected, situated on the east side of Water street, between High street and Mulberry street, in the city of Philadelphia aforesaid, containing in breadth on said Water street about twenty-one feet, and extending into the river Delaware; bounded northward by ground of , southward by ground of , eastward by the river Delaware aforesaid, and westward by Water street aforesaid; (being the same premises which the trustees of the University of the State of Pennsylvania, by deed poll under the common seal of their corporation, bearing date the third day of November instant, for the consideration therein mentioned, granted and confirmed unto the said Joseph Mercier in fee, as in and by the said deed poll more at large appears;) together, also, with all and singular other the buildings and improvements, rights, members, and appurtenances whatsoever thereunto belonging or in anywise appertaining, and the reversions and remainders thereof. To have and to hold the said described brick messuage or tenement, and lot or piece of ground, and wharf thereon erected, hereditaments, and premises hereby granted or mentioned, or intended so to be, with the appurtenances, unto the said Samuel Magaw, his heirs and assigns, to and for the only proper use, benefit, and behoof of him, the said Samuel Magaw, his heirs and assigns forever: provided, always, nevertheless, that if the said Joseph Mercier and Anna, his wife, their heirs, executors, administrators, or assigns, shall and do well and truly pay, or cause to be paid, unto the said Samuel Magaw, his heirs and assigns, the aforesaid debt or principal sum of nine hundred pounds aforesaid, on the day and time herein before mentioned, and appointed for payment thereof, without any fraud or further delay, according to the form and effect of the said recited bond or obligation, and without any defalcation or abatement to be made for or in respect of any charges, taxes, or assessments whatsoever, then, as well this present indenture, and the estate thereby granted, as the said recited bond or obligation, shall cease and become void, anything herein before contained to the contrary thereof in anywise notwithstanding.

In witness whereof the said parties to these presents have hereunto interchangeably set their hands and seals, dated the day and year first above written.

JOSEPH MERCIER, [L. S.]
ANN MERCIER. [L. S.]

Sealed and delivered in the presence of us:
HU. M'CREE,
EDWARD FOX.

On fourteenth day of November, anno domini 1791, before me, Edward Shippen, esquire, one of the justices of the supreme court of Pennsylvania, personally came Joseph Mercier and Anna, his wife, in the within written indenture of mortgage named, and acknowledged

the said indenture to be their act and deed, and desired the same to be recorded as such according to law, the said Anna thereunto voluntarily consenting, she being of full age, separate and apart from her said husband by me examined, and the contents thereof first made known unto her.

Witness my hand and seal the day and year aforesaid.

EDWARD SHIPPEN. [L. S.]

Recorded in the office for recording of deeds, &c., for the city and county of Philadelphia, in Mortgage book No. 7, page 519, &c.

Witness my hand and seal of office, the 28th of December, anno domini 1791.

[SEAL.] MATH. IRVIN,
Recorder.

XI. *Proclamation of the supreme executive council.*

PENNSYLVANIA, *ss.*

[SEAL.] By his excellency Joseph Reed, esq., president, and the supreme executive council of the Commonwealth of Pennsylvania.

A proclamation.

JOS. REED, president. Whereas the following named persons, late and heretofore inhabitants of this State—that is to say, Thomas Eddy, ironmonger; James Talbert, trader; John Fox, cutler; Daniel Rundle, Matthias Aspden, John Warder, and Benjamin Booth, merchants; and Phineas Bond, attorney-at-law; Joseph Fox, blacksmith; and William Pyles, mariner, all now or late of the city of Philadelphia; and William Corker, cooper, and James Waln, yeoman, both now or late of the township of the Northern Liberties; and Daniel James, yeoman, now or late of the township of Moreland, all now or late of the county of Philadelphia; and Joseph Kenard, laborer, now or late of the township of Plumstead; John Meredith, laborer, now or late of the township of New Britain; John Overholt, yeoman, now or late of the township of Tinicum; George Brown and Joseph Worthington, (son of Richard Worthington,) laborer, both now or late of the township of Buckingham; and Alexander Cobert, yeoman, now or late of the township of Makefield; and Evan Thomas, laborer, now or late of the township of Hilltown, all now or late of the county of Bucks; and Joshua Proctor, yeoman, now or late of the township of New Garden; Samuel Fairland, yeoman, now or late of the borough of Chester; and George Sinclair, tanner, now or late of the township of West Caln, all now or late of the county of Chester; and Jacob Boyer, yeoman, now or late of the township of Donegall, and Abraham Bare, yeo-

man, now or late of the township of Earle, both now or late of the county of Lancaster; and Henry Steininger, laborer, and George Philip Wertman, yeoman, both now or late of the township of Linn, both now or late of the county of Northampton; and Alexander M'Donald, Kenneth M'Kenzie, and Edward Irvin, yeoman, all nor or late of the township of Rye; and William Simpson and William M'Pherson, blacksmiths, and Hugh Givin, laborer, all now or late of the township of Tyrone, all now or late of the county of Cumberland, have severally adhered to, and knowingly and willingly aided and assisted, the enemies of this State and of the United States of America, by having joined their armies in this State and elsewhere: We, the supreme executive council aforesaid, by virtue of certain powers and authorities to us given by an act of general assembly, entitled "An act for the attainder of divers traitors, if they render not themselves by a certain day, and for vesting their estates in this commonwealth, and for more effectually discovering the same, and for ascertaining and satisfying the lawful debts and claims thereupon," do hereby strictly charge and require the said Thomas Eddy, James Talbert, John Fox, William Pyles, Joseph Fox, William Corker, James Waln, Daniel Janes, Joseph Kennard, John Merideth, John Overholt, George Brown, Joseph Worthington, Alexander Cobert, Evan Thomas, Joshua Proctor, Samuel Fairlamb, George Sinclair, Jacob Bowyer, Abraham Bare, Henry Steininger, George Philip Wertman, Alexander M'Donald, Kenneth M'Kenzie, Edward Erwin, William Simpson, William M'Pherson, and Hugh Given, to render themselves to some or one of the justices of the Supreme Court, or of the justices of the peace of one of the counties in this State, on or before the twenty-seventh day of October next.

And we do in like manner require the said Daniel Rundle, Matthias Aspden, Benjamin Booth, Phineas Bond, and John Warden, to render themselves to some one of the justices aforesaid on or before the first day of April next; and also abide their legal trials, respectively, for such their treason, on pain that every of them, the said Thomas Eddy, James Talbert, John Fox, John Warden, Daniel Rundle, Matthias Aspden, Benjamin Booth, Phineas Bond, Joseph Fox, William Pyles, William Corker, James Waln, Daniel Janes, Joseph Kennard, John Merideth, John Overholt, George Brown, Joseph Worthington, Alexander Corbet, Evan Thomas, Joshua Proctor, Samuel Fairlamb, George Sinclair, Jacob Boyer, Abraham Bare, Henry Steininger, George Philip Wertman, Alexander M'Donald, Kenneth M'Kenzie, Edward Erwin, William Simpson, William M'Phearson, and Hugh Givin, not rendering himself as aforesaid, and abiding the trial aforesaid, shall, from and after the said twenty-seventh day of October, and first day of April, respectively, stand and be attainted of high treason, to all intents and purposes, and shall suffer such pains and penalties, and undergo all such forfeitures, as persons attainted of high treason ought to do; and all the faithful subjects of this State are to take notice of this proclamation, and govern themselves accordingly.

Given by order of the council under the hand of his excellency Joseph Reed, esquire, president, and the seal of the State, at Philadelphia, this twenty-seventh day of July, in the year of the Lord one thousand seven hundred and eighty.

Attest: TY. MATLACK,
Secretary.

God save the people.

Enrolled in the rolls office for the State of Pennsylvania, in commission book No. 1, page 76. Witness my hand and seal of office, the 20th December, A. D. 1785. [L. S.]

MATH'W IRWIN, *M. R.*

PENNSYLVANIA, *ss.*

I do certify that the within "proclamation" is a true copy of the original remaining on file among the records of this office.

Witness my hand and seal of the office of secretary of State at Harrisburg, this 25th day of November, A. D. 1845.

H. PETRIKIN,
Deputy secretary of common'h.

XII. *Minutes of the supreme executive council.*

In council, Philadelphia, Thursday, January the 10th, 1782 Present, his excellency the President, the honorable Mr. Bayard, Mr. Gardner, Mr. Byers, Mr. Piper, Mr. Haynes, and Mr. Pentecast.

On consideration, ordered, that William Rush, esquire, and Mr. Benjamin Harbeson, be requested to view the house and lot of ground situate in Water street, between Market and Arch streets, late the estate of Matthias Aspden, an attainted traitor, and now in the tenure of Stacy Hepburn, and make return of the value thereof to this board, according to the best of their skill and judgment, in order that the same may be assigned to the use of the University of this State.

In council, Philadelphia, Friday, March 1st, 1782. Present, his excellency the President, the honorable the Vice President, Mr. Gardner, Mr. Bayard, Mr. Ewing, Mr. Vancampin, Mr. Piper, Mr. Hayes, Mr. Byers, and Mr. Pentecast.

The return of William Rush and Benjamin Harbeson, appointed by order of the council of the tenth of January last to view and make return of the value of a house and lot of ground, late the estate of Matthias Aspden, an attainted traitor, situate between Market and Mulberry streets, Water street, and the river Delaware, in order that the same may be assigned to the University of this State, was read; by which return it appears that the said lot is bounded north by a house and stores of Thomas Say, west by Water street, southward by ground of ——, and eastward by Delaware river, on which a messuage, kitchen, and range of brick stores are erected, now in the tenure of Joseph Shewell, and that the said estate is of the value of fourteen

hundred pounds, lawful money of Pennsylvania, exclusive of the ground rent payable thereon. Therefore

Resolved, that the said estate be assigned to the University of the State of Pennsylvania, that the same be now delivered to the trustees, and that the said institution be charged therewith, according to the valuation in the estimation of estates so assigned, agreeably to the act of general assembly directing the same.

PENNSYLVANIA, *ss.*

I do certify that the above is a true copy or extract from the minutes of the council, vol. 5, pages 9 and 10, and pages 69 and 70, remaining among the records in this office.

Witness my hand and seal of the office of Secretary of State, at Harrisburg, November 25th, 1845.

H. PETRIKIN,
Deputy Secretary of Commonwealth.

XIII. *Patent. The Commonwealth of Pennsylvania to E. Bartholomew.*

The Commonwealth of Pennsylvania, to all persons to whom these presents shall come, greeting:

Whereas our supreme executive council, by virtue of certain powers and authorities vested in them by an act of our general assembly, enacted on the sixth day of March, in the year of our Lord, one thousand seven hundred and seventy-eight, intituled "An act for the attainder of divers traitors, if they render not themselves by a certain day, and for vesting their estates in the commonwealth, and for more effectually discovering the same, and for ascertaining and satisfying the lawful debts and claims thereupon," by their proclamation under our seal, bearing date the twenty-seventh day of July, in the year of our Lord one thousand seven hundred and eighty, did strictly charge and require (among others) Matthias Aspden, late of the city of Philadelphia, merchant, who then adhered to, and knowingly and willingly aided and assisted the enemies of us and of the United States of America, by having joined their armies, to render himself to some or one of the justices of the supreme court, or of the justices of the peace of one of the counties within our State, on or before the first day of April, in the year of our Lord, one thousand seven hundred and eighty-one, and also abide his legal trial for such his treason, on pain that the said Matthias Aspden, not rendering himself as aforesaid, and abiding the trial aforesaid, should, from and after the first day of April, in the year of our Lord one thousand seven hundred and eighty-one, stand and be attainted of high treason to all intents and purposes, and should suffer such pains and penalties, and undergo all such forfeitures as persons attainted of high treason ought to do. And whereas the said Matthias Aspden did not render himself as aforesaid, nor abide the

trial aforesaid, and therefore pursuant to the said recited act of our general assembly, and proclamation of our council aforesaid, from the said first day of April, one thousand seven hundred and eighty-one, stands and is attainted of high treason, to all intents and purposes, and all the estate, real and personal, of what nature or kind soever, of him, the said Matthias Aspden, within our State, stands and is forfeited to our use. And whereas the said Matthias Aspden, at the time of his joining our said enemies, and at the time of his attainder of high treason as aforesaid, was seized in his demesne as of fee (inter alia) of and in a certain tract or parcel of land, situate in the township of Newtown, in the county of Chester, containing one hundred and seventy-two acres, strict measure. And whereas our agent for the sale of forfeited estates in the said county of Chester, pursuant to the directions of the said above recited act of our general assembly, and of one other act of our said assembly, enacted on the twenty-ninth day of April, in the year of our Lord one thousand seven hundred and seventy-nine, being a supplement to the above recited act, exposed the tract or parcel of land aforesaid, situate as aforesaid, with the appurtenances, at public sale at the court-house in the borough of Chester, in the county of Chester aforesaid, on the twenty-ninth day of April last, (he having previously given due and legal notice of the day and place of sale of the said premises,) when Edward Bartholomew, esq., of the city of Philadelphia, bought the same for the sum of one thousand and ninety pounds, lawful money of Pennsylvania, he being the highest bidder. Now, know ye, that we, for and in consideration of the said sum of one thousand and ninety pounds, lawful money of Pennsylvania, to our use, before the execution hereof, duly paid by the said Edward Bartholomew, as to our supreme executive council, our said agent hath certified, the receipt whereof we do hereby acknowledge, have given, granted, and confirmed, and by force and virtue of the said recited acts of our general assembly, do give, grant, and confirm, unto the said Edward Bartholomew, and to his heirs and assigns, the aforesaid plantation or tract of land, situate in the township of Newtown, and county of Chester aforesaid, bounded as follows, viz., beginning at a stone, a corner of Edward Hunter's land, thence by the said Edward Hunter's land the seven following courses, to wit, north twenty-five degrees west seventy-six perches to a white oak tree, north sixty degrees west twenty-one perches to a post, south fifty-five degrees west seventy-one perches and a quarter to a post where a gum tree once stood, south seventy degrees west sixty-nine perches to a post; thence south thirty-nine degrees west forty-eight perches to a post; thence south twenty-five degrees and a quarter east six perches and a quarter to a post; thence south fifty-five degrees west ninety-one perches and a half to a post where a chestnut tree once stood, a corner of George Dunn's land; thence by the said George Dunn's land the two following courses, to wit, south thirty seven degrees east thirty-nine perches to a white oak tree blown down; thence south fifteen degrees east forty-two perches and a half to where a hickory stood; thence south thirteen degrees east

fourteen perches to a stone standing in the run, a corner of Thomas and David Pratt's land; thence partly by the same land and partly by the land of Isaac Reece, being the line which divides Newtown and Marple townships, north fifty-five degrees east two hundred and ninety perches to the place of beginning; containing one hundred and seventy-two acres of land, strict measure, together with all the buildings, improvements, ways, roads, passages, woods, underwoods, waters, watercourses, rights, liberties, privileges, hereditaments, and appurtenances whatsoever, thereunto belonging, or in anywise appertaining, and the reversions, remainders, rents, issues, and profits thereof, and all the estate, right, title, interest, use, possession, property, claim, and demand whatsoever which the said Matthias Aspden, at the time of his attainder of high treason as aforesaid, had or legally could, or ought to have had, of, in, and to the said premises and appurtenances. To have and to hold the aforesaid tract or piece of land, hereditaments, and premises hereby granted or mentioned, so to be with the appurtenances, unto the said Edward Bartholomew, and to his heirs and assigns, to the only proper use, benefit, and behoof of him, the said Edward Bartholomew, his heirs and assigns forever, according to the force, form, and effect of the acts of our general assembly in that case made and provided.

Witness the hon. Charles Biddle, esquire, vice president of our supreme executive council, who, by virtue of the powers and authorities in and by the said above recited acts of our general assembly to him for this purpose (inter alia) granted, hath hereunto set his hand, and caused the great seal of the State to be hereunto affixed, in council at Philadelphia, this twenty-sixth day of August, in the year of our Lord one thousand seven hundred and eighty-six, and in the eleventh year of our independence. CHARLES BIDDLE, *V. P.*

Attest:

JAMES TRIMBLE, for
JOHN ARMSTRONG, junior, *Secretary.*

(Endorsed on back.)

Enrolled in the rolls office for the State of Pennsylvania, in patent book No. 6, page 437.

[L. S.] Witness my hand and seal of office, the 6th September, A. D. 1786.

MATHW. IRWIN, *M. R.*

[SEAL.]

XIV. *Deed—E. Bartholomew to R. Mendenhall.*

This indenture, made the twenty-eighth day of February, in the year of our Lord one thousand seven hundred and ninety-six, between Edward Bartholomew, late of the city of Philadelphia, now of East Whiteland township, in the county of Chester, of the one part, and Robert Mendenhall, of the township of Newtown, in the county of Delaware, in the State of Pennsylvania, blacksmith, of the other part, witnesseth:

That the said Edward Bartholomew, for and in consideration of the sum of one thousand and thirty-two pounds, lawful money of Pennsylvania, to him in hand paid at the time of the execution hereof, the receipt whereof is hereby acknowledged, hath granted, bargained, sold, aliened, enfeoffed, released, and confirmed, and by these presents doth grant, bargain, sell, alien, enfeoff, release, and confirm, unto the said Robert Mendenhall, his heirs and assigns, a certain tract or parcel of land situate in the township of Newtown, in the county of Delaware, (late in the county of Chester,) bounded as follows, viz., beginning at a stone, a corner of Edward Hunter's land; thence by the said Edward Hunter's land the seven following courses, to wit, north twenty-five degrees west seventy-six perches to a white oak tree, north sixty degrees west twenty-one perches to a post, south fifty-five degrees west seventy-one perches and a quarter to a post where a gum tree once stood, south twenty degrees west sixty-nine perches to a post; thence south thirty-nine degrees west forty-eight perches to a post; thence south twenty-five degrees and a quarter east six perches and a quarter to a post; thence south fifty-five degrees west ninety-one perches and a half to a post where a chestnut tree once stood, a corner of George Dunn's land; thence by the said George Dunn's land the two following courses and distances, to wit, south thirty-seven degrees east thirty-nine perches to a white oak tree blown down; thence south fifteen degrees east forty-two perches and a half to where a hickory stood; thence south thirteen degrees east fourteen perches to a stone standing in the run, a corner of Thomas and David Pratt's land; thence partly by the same land, and partly by land of Isaac Reece, being the line which divides Newtown and Marple townships, north fifty-five degrees east two hundred and ninety perches to the place of beginning; containing one hundred and seventy-two acres of land, strict measure, (being the same premises which the Commonwealth of Pennsylvania, by deed-poll dated the twenty-sixth day of August, one thousand seven hundred and eighty-six, recorded in the rolls office of Pennsylvania, in patent book No. 6, page 437, conveyed to the said Edward Bartholomew in fee.) To have and to hold the premises hereby granted, with the rights, privileges, buildings, improvements, hereditaments, and appurtenances thereunto belonging, unto the said Robert Mendenhall, his heirs and assigns, to his and their own proper use and behoof forever; and the said Edward Bartholomew and his heirs, the premises hereby granted, with the appurtenances, unto the said Robert Mendenhall, his heirs and assigns, against himself and his heirs, and all persons claiming under him or them, shall and will warrant and forever defend.

In witness whereof the said parties have, to these presents, interchangeably set their hands and seal, the day and year first above written. EDWARD BARTHOLOMEW. [SEAL.]

Sealed and delivered in the presence of us—
JOHN BARTHOLOMEW,
EDWARD HUNTER, *Witnesses*.

I acknowledge to have received of Robert Mendenhall the full consideration money above mentioned.

EDWARD BARTHOLOMEW.

(Endorsed on the back.)

On the third day of March, in the year of our Lord one thousand seven hundred and ninety-six, before me, the subscriber, one of the justices of the peace in and for the county of Delaware, personally came Edward Bartholomew, in the within indenture named, and in due form of law acknowledged the same to be his act and deed, and desired that it might be recorded as such.

In witness whereof I have hereunto set my hand and seal, the day and year aforesaid.

EDWARD HUNTER, [SEAL.]

DELAWARE COUNTY, *ss.*

Entered January the 29th, A. D. 1798, and recorded in the office for recording of deeds, in and for said county, this seventh day of February, in the year of our Lord, one thou-
Delaware, Penna. sand seven hundred and ninety-eight, in deed book D, folio 104, &c.

In testimony whereof I have hereunto set my hand and affixed the seal of said county, the day and year aforesaid.

DAVIS BEVAN, *Recorder*.

XV. *Deed—R. Mendenhall and wife to George Hunter.*

This indenture, made the twenty-seventh day of April, in the year of our Lord one thousand eight hundred, between Robert Mendenhall, of Newtown township, in the county of Delaware, and State of Pennsylvania, farmer, and Mary Mendenhall, his wife, of the one part, and George Hunter, of the same place, farmer, of the other part, witnesseth: That the said Robert Mendenhall and Mary, his wife, for and in consideration of the sum of nine hundred and fifty pounds, lawful money of Pennsylvania, to them in hand paid at or before the sealing and delivering hereof, the receipt whereof they do hereby acknowledge, have granted, bargained, sold, released, and confirmed, and by these presents do grant, bargain, sell, release, and confirm, unto the said George Hunter, his heirs and assigns, a certain tract or piece of land, situate in the township of Newtown, in the county of Delaware aforesaid, beginning at a stone set for a corner in the line between this and land of David Pratt, it being the line which divides Newtown and Marple townships, south fifty-one degrees and a half west, one hundred and sixty perches, to a stone standing in the run, a corner; thence, by lands late the property of George Dunn, deceased, north eighteen degrees west, fourteen perches, to a stone where a hickory stood; thence, by said land, north nineteen degrees west, forty-four perches, to a stone; thence,

by said land, north forty-one degrees west, thirty-nine perches, to a stone standing in Edward Hunter's line; thence, by land of Edward Hunter's, north fifty-one degrees and a half east, ninety-one perches and a half, to a stone; thence, by said land, north twenty-eight degrees and a half west, six perches and a quarter, to a stone; thence, by said land, north thirty-three degrees east, forty-eight perches, to a stone; thence, north sixty-six degrees and a half east, thirty-three perches and a half, to a stone standing in Edward Hunter's line, being a corner of this and Robert Mendenhall's land; thence, by said Mendenhall's land, south twenty-four degrees east, one hundred and nine perches, to the place of beginning, containing one hundred acres and sixteen perches; (being part of one hundred and seventy-two acres of land, which the Commonwealth of Pennsylvania by deed-poll, dated the twenty-sixth day of August, one thousand seven hundred and eighty-six, recorded in the roll office of Pennsylvania, in patent book No. 6, page 437, conveyed to Edward Bartholomew in fee; which said one hundred and seventy-two acres of land Edward Bartholomew, by an indenture dated the twenty-eighth day of February, 1796, (recorded in the office for recording of deeds for the county of Delaware, in deed book D, folio 104, &c., the twenty-ninth day of January, A. D. 1798,) did grant and convey unto Robert Mendenhall, in fee, as may more fully appear, recourse being had to the offices aforesaid;) together, also, with all and singular the improvements, ways, woods, water, water-courses, (also the water that rises on the said Mendenhall's land, and liberty to make and repair such water-courses to conduct this said water to such place as may best accommodate the said George Hunter,) rights, members, liberties, privileges, hereditaments, and appurtenances whatsoever, thereunto belonging or in anywise appertaining, and the reversions, remainders, rents, issues, and profits thereof, and all the estate, right, title, interest, property, claim, and demand whatsoever of them, the said Robert Mendenhall and Mary, his wife, in law or equity, of, into or out of the said granted premises. To have and to hold the said tract or piece of land above described, hereditaments, and premises hereby granted, bargained, and sold, or mentioned, and intended to be granted, bargained, and sold, with the appurtenances, unto the said George Hunter, his heirs and assigns, to the only proper use and behoof of the said George Hunter, his heirs and assigns, forever. And the said Robert Mendenhall, for himself and his heirs, executors, and administrators, doth covenant, promise, and agree, to and with the said George Hunter, his heirs and assigns, by these presents, that he, the said Robert Mendenhall and his heirs, the said tract or piece of land above described, hereditaments, and premises hereby granted, or mentioned so to be, with the appurtenances, unto the said George Hunter, his heirs and assigns, against him, the said Robert Mendenhall and his heirs, and against all and every other person or persons whomsoever, lawfully claiming or so to claim, by, from, or under him, them, or any of them, shall and will warrant and forever defend by these presents.

In witness whereof the said parties hereto have interchangeably set

their hands and seals hereunto, dated the day and year first above written.

ROBERT MENDENHALL, [SEAL.]
MARY MENDENHALL. [SEAL.]

The 29th day of May, A. D. 1800, before me, the subscriber, one of the justices for the county of Delaware, came the above named Robert Mendenhall and Mary, his wife, and acknowledged the above wtitten indenture to be their act and deed, and desired the same may be recorded as such. The said Mary Mendenhall, being of full age, and perfect mind and memory, apart examined, and the contents thereof made known to her, voluntarily consented thereto.

Witness my hand and seal.

EDWARD HUNTER. [SEAL.]

(N. B. All interlining done before signing.)

Received, on the day of the date of the above written indenture, of George Hunter, above named, nine hundred and fifty pounds, lawful money of Pennsylvania, in full of the consideration above mentioned.

ROBERT MENDENHALL.

Signed in the presence of us—

Sealed and delivered in the presence of us—
EDWARD HUNTER,
RICHARD FAWKES, jr.

[Endorsed on back.]

Entered and recorded in office for recording deeds, in and for the county of Delaware, in Deed book 2, page 624, the 23d day of December, in the year of our Lord one thousand eight hundred and one.

Witness my hand and seal of said county.

JAMES BARNARD.

XVI. *Deed—George M. Hunter and others to Wm. Hunter.*

This indenture, made the first day of April, in the year of our Lord one thousand eight hundred and thirty-seven, between George M. Hunter, Martha E. Hunter, Joseph P. Hunter and Rebecca, his wife, Stephen D. Hunter, Jonas P. Hunter, all of Newtown township, Delaware county, and State of Pennsylvania, Albert G. Hunter, of the city of Philadelphia, in the State of Pennsylvania, and Perry M. Hunter, of Gohen township, Chester county, and State of Pennsylvania aforesaid, of the one part, and William Hunter, of Newtown township aforesaid, of the other part; and whereas Robert Mendenhall and Mary, his wife, by indenture, under their hands and seals, dated the 27th day of April, anno domini 1800, for the consideration therein mentioned, did grant

and confirm unto George Hunter, and to his heirs and assigns, a certain tract of land in the township of Newtown aforesaid, containing one hundred acres and sixteen perches of land, with the appurtenances, to hold the same to him, his heirs and assigns forever, as in and by the said recited indenture, recorded in the office for recording of deeds in and for Delaware county, in book L, page 674, recourse being thereunto had appears, by force and virtue of which said recited indenture the said George Hunter became, in his lifetime, lawfully seized in his demene, as of fee, of and in the said tract of land with the appurtenances; and being so thereof seized, died intestate, leaving issue seven children, to wit, George M. Hunter, Martha E. Hunter, Albert G. Hunter, Joseph P. Hunter, Stephen D. Hunter, Jonas P. Hunter, and Perry M. Hunter, to whom the same, by the laws of Pennsylvania relating to intestates' estates, did descend and come: Now, this indenture witnesseth, that the said George M. Hunter, Martha E. Hunter, Joseph P. Hunter and Rebecca, his wife, Stephen D. Hunter, Jonas P. Hunter, Albert G. Hunter, and Perry M. Hunter, for and in consideration of the sum of five thousand two hundred dollars to them in hand paid by the said William Hunter, at and before the sealing and delivery hereof, the receipt whereof they do hereby acknowledge, and thereof acquit and forever discharge the said William Hunter, his heirs, executors, and administrators, by these presents, have granted, bargained, sold, released, and confirmed, and by these presents do grant, bargain, sell, release, and confirm, unto the said William Hunter, and to his heirs and assigns, all that certain messuage or tenement and tract of land situatedi n the township of Newtown aforesaid, bounded and limited as follows: Beginning at a stone in line of David Pratt's land, and in a line dividing the townships of Newtown and Marple; thence by the same south fifty-one degrees and a half west one hundred and sixty perches to a stone standing in the run, a corner of lands of the heirs of George Dunn, deceased; thence by lines of the same north eighteen degrees west fourteen perches to a stone, north nineteen degrees west forty-four perches to a stone, north forty-one degrees west thirty-nine perches to a stone in a line of William Hunter's land; thence by lines of the same north fifty-one degrees and a half east ninety-one perches and a half to a stone, north twenty-eight degrees and a half west six and a quarter perches to a stone, north thirty-three degrees east forty-eight perches to a stone, north sixty-six and a half degrees east thirty-three and a half perches to a stone, a corner of Mendenhall's lands; thence by the same south twenty-four degrees east one hundred and nine perches, to the place of beginning, containing one hundred acres and sixteen perches of land, be the same more or less, together with all and singular other the barns, houses, buildings, improvements, ways, woods, waters, water-courses, rights, liberties, privileges, hereditaments, and appurtenances whatsoever thereunto belonging, or in anywise appertaining, and the reversions and remainders, rents, issues, and profits thereof; and also all the estate, right, title, interest, property, claim, and demand whatever of them, the said George M. Hunter, Martha E. Hunter, Joseph P. Hunter and Rebecca, his wife, Stephen D. Hunter, Jonas P. Hunter, Albert G. Hunter,

and Perry M. Hunter, in law or equity, or otherwise howsoever, of, in, to, or out of the same: to have and to hold the said messuage or tenement and tract of one hundred acres and sixteen perches of land, hereditaments, and premises hereby granted or mentioned, or intended so to be, with the appurtenances, unto the said William Hunter, his heirs and assigns, to the only proper use and behoof of the said William Hunter, his heirs and assigns, forever; and the said George M. Hunter, Martha E. Hunter, Joseph P. Hunter and Rebecca, his wife, Stephen D. Hunter, Jonas P. Hunter, Albert G. Hunter, and Perry M. Hunter, for themselves, their heirs, executors, and administrators, do covenant, promise, grant, and agree, to and with the said William Hunter, his heirs and assigns, by these presents, that they, the said heirs of George Hunter, deceased, the said above mentioned and described messuage or tenement and tract of land, hereditaments, and premises hereby granted or mentioned, or intended so to be, with the appurtenances, unto the said William Hunter, his heirs and assigns, against them and their heirs, and against all and every other person and persons whomsoever, lawfully claiming or to claim by, from, or under him, her, them, or any or either of them, shall and will warrant and forever defend, by these presents.

In witness whereof the said parties to these presents have hereunto interchangeably set their hands and seals the day and year first above written.

STEPHEN D. HUNTER, [SEAL.]
JONAS P. HUNTER, [SEAL.]
ALBERT G. HUNTER, [SEAL.]
PERRY M. HUNTER, [SEAL.]
GEORGE M. HUNTER, [SEAL.]
MARTHA E. HUNTER, [SEAL.]
JOSEPH P. HUNTER, [SEAL.]
REBECCA HUNTER. [SEAL.]

Sealed and delivered in presence of us—
ELIJAH BROOK,
LUKE CASSIN,
LUKE CASSIN, Jr.

(Endorsed on the back of the above deed.)

DELAWARE COUNTY, *ss.*

Be it known, that on the first day of April, anno domini 1837, before me, Luke Cassin, esquire, one of the justices of the peace in and for said county, came the within named George M. Hunter, Martha E. Hunter, Joseph P. Hunter and Rebecca, his wife, Stephen D. Hunter, Jonas P. Hunter, Albert G. Hunter, and Perry M. Hunter, and acknowledged the within indenture to be their act and deed, and requested the same to be recorded as such according to law. The said Rebecca being of full age, and by me duly examined separate and

apart from her said husband, the contents thereof being first made known to her, declared that she did voluntarily and of her own free will and accord seal, and as her act and deed deliver, the said indenture, without any coercion or compulsion of her said husband.

In witness whereof I have hereunto set my hand and seal, the day and year above written. LUKE CASSIN. [SEAL.]

Received on the day of the date of the within indenture, of and from the within named William Hunter, the sum of five thousand two hundred dollars, lawful money of the United States, it being the consideration money within mentioned in full.

GEORGE M. HUNTER,
MARTHA E. HUNTER,
JOSEPH P. HUNTER,
STEPHEN D. HUNTER,
JONAS P. HUNTER,
ALBERT G. HUNTER.

Witness present signing:
LUKE CASSIN,
ELIJAH BROOK.

Recorded in the office for recording of deeds, in and for Delaware county, in Deed book U, page 94, &c., the seventh day of June, anno domini 1837.

Witness my hand and seal of office.

[L. S.] JOHN RICHARDS,
Recorder.

XVII. *Extracts from the ledger of the university.*

44.

Joseph Mercier, house in Water street, between High and Mulberry streets, late the estate of Matthias Aspden.

DR.

1782, May 5 till August 5, 1783, 1¼ year, a 250 per annum	£312	10	0
To rent from 10th October, 1783, till 10th April, 1785, Tellar, tenant, 1½ year, a £260	390	0	0
To one year's rent from 15th May, 1786	£240	0	0
till May 15, 1787	150	0	0
	£390	0	0
1787, June 22. To balance due	£73	7	6

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1787, Nov. 15.	To 6 months' rent - - -	£50	0 0
1788, May 15.	To 6 months' rent - - -	50	0 0
	100.		

From May 15, 1788, to 22d October.

CONTRA CR.

1783, Oct. 4.	By cash paid Guyer, by Jewell -	£32	1 10
Dec. 23.	Do. do. Wm. Will, esq., sheriff - - - -	37	10 10
	Lost - -	242	18 2
	By cash paid G. B., order on assigns of Clement Biddle - - -	£232	16 8
	By repairs, as valued by Craig, the carpenter—		
1786, May 20.	By cash paid to Guyer - -	£115	2 6
	Do do - - -	85	10 0
1787, June 22.	By repairs, as per bill of receipts -	48	0 0
	By cash to James Rowan, on account -	68	0 0
	Balance due - -	73	7 6
		£390	0 0
1787, July 7.	By cash of Joseph Mercier, on account	£30	7 0
July 28.	Do. do. do.	21	10 0
Aug. 10.	Do. do. do.	9	0 0
Sept. 25.	Do. do. do.	12	10 6
		£73	7 6
1788, May 24.	Do. do. do. -	£46	17 6
June 27.	Do. do. do. -	16	17 6
	(Ent'd) - - £63 15 0		
	73 7 6		
	390 0 0		
	£527 2 6		

The above is a true copy from the ledger of the University of Pennsylvania.

GEORGE EMLEN, Jr.,
Treasurer.

May 23, 1850.

Depositions taken since the sixteenth of May, 1850.

July 10*th*, 1850.

Thomas Aspden, sworn.

The following papers were exhibited to him:

(1.) Abstract of patents.

(2.) Certificate signed Rebecca Budden, Philadelphia, June 1, 1754.

(3.) Certificate signed Daniel Jones, Potowmack, June 29, 1768.

(6.) Deed, John Gross et uxor to Jacob Yocum, January 28, 1763.

I received all these papers at the same time, as Nos. 5, 11, and 3, spoken of in my former examination, from Mr. Nixon. The numbers were endorsed at the time by Mr. Nixon.

Question. By whom was the pencil writing in No. 1 made.

Answer. I think it is not in my handwriting; I heard Mr. M'Laughlin say just now that he made those marks. I do not know who made the pencil marks on No. 2.

(Signed) THOMAS ASPDEN.

(NOTE.—Mr. M'Laughlen then made the following statement: "I made these pencil marks and words on the papers endorsed Nos. 1 and 2, in the course of an examination of the title to these lots for Mr. Thomas Aspden, some time in the year 1849.")

Notes of documentary evidence, received since May sixteenth, 1850. See printed book, p. 65–70.

June 19*th*, 1850.

Exemplifications of the following deeds:

Patent. William Penn to Daniel Jones for lot on the north side of Walnut street, 62 feet front by 255 feet deep; surveyed January 27, 1683, to Daniel Jones. 1684, 4 mo., 24.

Recorded, 1684, A, vol. 1, p. 6.

Patent. Commissioners of William Penn to Daniel Jones, for lot on north side of Walnut street, 37 feet front by 255 feet deep; surveyed 20th 8th mo., 1684, to Daniel Jones. 1685, 4 mo., 22.

Recorded, 1685, A, vol. 1, p. 108.

Patent. Commissioners of William Penn to Daniel Jones, for a piece of land in the county of Philadelphia, on Poquessing creek, containing 100 acres by metes and bounds; surveyed 18th 11th mo., 1685, to Daniel Jones. 1685, 11 mo., 19.

Recorded 1685, A, vol. 1, p. 115.

Patent. Commissioners of William Penn to Daniel Jones, for lot on north side of Walnut street, 63½ feet front by 250 feet deep; surveyed October 31, 1691, to Daniel Jones. 1692, Sept. 7.

Recorded 1696, A, vol. 1, p. 328.

June 26th, 1850.

Exemplification of

1692, 6 mo., 1. Deed. John Green to Daniel Jones, for lot at north-east corner of Walnut and Fourth streets, from Delaware, 74 feet on Walnut street by 255 feet in depth.

Recorded, 1695, E, No. 2, vol. 5, p. 293.

July 10th, 1850.

Exemplification of

1697, April 27. Deed poll. Daniel Jones to Charles Sober, for lot on west side of Fourth street, containing in length 150 feet, and in breadth 76 feet.

Recorded, 1739, G 2, p. 58.

(Endorsed) "No. 1." "Abstract of patents."

"No 2." Certificate, signed Rebecca Budden, Philadelphia, June 1, 1754.

"No. 3." Certificate, signed Daniel Jones, Potowmack, June 29, 1768.

"No. 6." Deed. John Gross et uxor to Jacob Yocum, 1763, January 28.

Note.—The last four papers were testified to by Thomas Aspden as having been received from Mr. Nixon, the executor, together with other documents heretofore given in evidence.

July 24th, 1850.

Exemplifications of the following deeds:

1685, 6, 12 mo. 2. Deed. Daniel Jones to Thomas Prichard, for forty-eight acres on Poquessing creek.

Recites previous conveyance of fifty-two acres.

Recorded, E, No. 1, vol. 5, p. 197.

1697, April 6. Deed poll. Daniel Jones to Charles Sober, for lot west side of Fourth street, &c.

Recorded, 1739, G 2, p. 56.

July 30th, 1850.

Exemplifications of the following deeds:

1721, Aug. 25. Deed. Elisha Gatchell to Simon Edgell.

Recorded, 1721, F 3, p. 257.

1735, Nov. 14. Deed. Simon Edgell to Elisha Gatchell Re-conveyance.

Recorded, 1735, F 8, p. 317.

Deed. Elisha Gatchell to Thomas Karr. 1741, April 30.
Recorded, 1757, H 7, 484.

Deed poll. Sheriff Coultas to Charles Norris. 1756, Dec. 4.
Certified copy of record of acknowledgment of sheriff's deed in the case of Mitchell vs. Executor of Gatchell, C. P.

Deed. Sarah King and others to Mary Jenkins. 1773, Oct. 4.
Recorded, 1773, J, p. 12, 152.

Deed of partition of the estate of Charles Norris between Mary Norris and others. 1788, May 24.
Recorded, 1788, D, 20, p. 303.

August 2d, 1850.

Deed poll. (Endorsed) George Logan and wife to William Kinley. 1788, Sept. 23.
Recorded, 1838, S. H. F., 27, p. 494.

Deed. Daniel Jones to David Lloyd. 1696, June 23.
Recorded, G 2, p. 299.

August 6th, 1850.

Deed. John Hodgkinson to Daniel Jones. 1686, 5 mo., 27.
Recorded, 1686, E 1, vol. 5, p. 410.

Deed poll. John Haywood, administrator of Daniel Jones, and Hugh Jones, son and heir of Daniel Jones, to William Alberson. 1699, 3 mo., 2.
Recorded, 1699, E 3, vol. 5. Exem. record, No. 7, p. 398.

Deed poll. William Alberson to Jeremiah Gatchell. 1703, April 2.
Recorded, 1839, G. S., No. 5, p. 354.

Deed. Jeremiah Gatchell to Elisha Gatchell. 1713, Oct. 26.
Recorded, 1839, G. S., 5, 356.

August 10th, 1850.

A book entitled "Ordinances of the Corporation of the City of Philadelphia, &c.," by John C. Lawber. Philadelphia, printed in 1812. Appendix, page 282, containing an account of the city of Philadelphia, 1683, with a list of first purchasers, and a plan of the city, by Thomas Holme, surveyor general. Page 285. Daniel Jones. No. 155.

(*Note*.—On the accompanying plan, No. 155 appears to be located at the southeast corner of Chestnut and Delaware Fifth streets.)

I. *Patent. William Penn to Daniel Jones.*

1784, 4 mo., 24. William Penn, by the providence of God and the king's authority, proprietary and governor of the province of Pennsylvania & ye territories thereunto belonging, to all to whom these presents shall come, sendeth greeting: Whereas there is a lott of land in Philadelphia containing in breadth sixty-two feet, and in length two hundred and fifty-five ffoot, bounded northward with back lotts, eastward with vacant lotts, southward with Walnut street, westward with a vacant lott granted by a warrant from my self, hearing date the twentieth day of ye ffirst month, one thousand six hundred eighty-three, and laid out by the survey'r's gen'l's order the twentieth-seaven day of the said month and year, unto Daniel Jones, and the s'd Daniel Jones requesting me to confirm the same by patent: Know ye that I have given, granted and confirmed, and by these presents for me, my heirs and successors, do give, grant, and confirm, unto ye said Daniel Jones, his heirs and assigns forever, ye s'd lott of land, to have, hold, and enjoy ye said lott to the only use and behoof of him the said Daniel Jones, his heirs and assigns, forever; to be holden of me, my heirs and successors, proprietarys of Pennsylvania and the territories thereunto belonging, as of our mannor of Springetts Berry, in the county aforesaid, in fee and common soccage by fealty only, he fencing in and building on ye same within six months, according to regulation; yielding and paying therefore to me, my heirs and success'rs, at or upon the ffirst day of ye ffirst month in every year, one English silver shilling, or vallue thereof in coyn curr't to such person or persons as shall be from time to time appointed for that purpose. In witness whereof I have caused these my letters to be made patents. Witness myself at Philadelphia ye twenty-ffourth day of ye ffourth month, one thousand six hundred eighty-four, being ye thirty-sixth year of the king's reign, and the ffourth of my government. WM. PENN.

Recorded ye 30 5 mo. 1684.
Recorded in patent book A, vol. I, page 6.

PHILADELPHIA CITY, *ss.*

I, George W. Colladay, recorder of deeds, &c., in and for the said city and county, do certify, that the above and foregoing is a correct copy of a certain instrument of writing found of record in my office, in patent book A, exemplification record No. 1, page 4.

Witness my hand and seal of office, this 13th day of June, A. D. 1850.

[L. S.] GEORGE W. COLLADAY,
Recorder.

II. *Patent. Commissioners to Daniel Jones.*

1685, 4 mo., 22. Thomas Lloyd, James Claypoole, Robert Turner, wee or anie two of us being nominated under the great seal, commissioners

by William Penn, proprietarie and governor of the province of Pennsilvania and the territories thereunto belonging, to grant and sign warrants and patents for land, to all to whom these presents shall come, sends greeting: Whereas, there is a certain lott of land in the citie of Philadelphia, being an addition to a former lott containing in breadth thirtie and seaven foot, and in length two hundred fiftie and five foot, bounded to the northward with back lotts, to the eastward with the said Daniel Jonesses lot, to the southward with Wallnut street, and to the westward with a vacant lott, granted by a warrant from ourselves, bearing date the thirttenth day of the eighth month, 1684, and laid out by order of the surveyor generall, the 20th day of the said month, unto Daniel Jones, renter, and the said Daniel Jones requesting us to confirm the same by patent. Know yee, that by virtue of our commission from the proprietarie and governor, wee have given, granted, and confirmed, and by thes presents for him and his heirs do give, grant, and confirm, unto the said Daniel Jones, his heirs and assigns for ever, the said lott of ground, to have, hold, and enjoy the said lott of ground to the onlie use and behoof of him the said Daniel Jones, his heirs and assigns, for ever, to be holden of the proprietarie and his heirs as of the mannor of Springettsberrie, in the countie aforesaid, in fee and common soccage, by fealtie onlie, it being sealed and improved according to regulation: yielding and paying therfor to the proprietarie and his heirs, att or upon the first day of the first month in evrie yeare, att Philadelphia, five English silver shillings, for the said lott of ground, to such person or persons as shall be from time to time appointed for that purpose.

In witness whereof we have caused these our letters to be made patents, att Philadelphia, the twentie-second day of the fourth month, 1685, being the first year of ye King's reign, and the fifth of the proprietarie's government.

JAMES CLAYPOOLE,
ROBERT TURNER.

Sealed with the seal of the province.
Recorded, 3d 10th month, 1685.
Recorded in patent book A, vol. I, page 108.

PHILADELPHIA CITY, *ss.*

I, George W. Colladay, recorder of deeds, &c., in and for the said city and county, do certify, that the above and foregoing is a correct copy of a certain instrument of writing found of record in my office, in patent book A, exemplification record No. 1, page 88, &c.

Witness my hand and seal of office, this 13th day of June, A. D. 1850.

[L. S.] GEORGE W. COLLADAY,
Recorder.

III. *Patent. Commissioners to Daniel Jones.*

1685, 11 mo., 19. Thomas Lloyd, James Claypoole, Robert Turner, wee

or anie two of us, being nominated and appointed, under the great seal, commissioners for William Penn, proprietary and governor of ye province of Pennsylvania and territories ye to belonging, to grant and sign warrants and patents for land, to all to whom these presents shall come, sends greeting: Whereas, ther is a certain piece of land scituated, lying, and being in countie of Philadelphia, beginning att a corner marked tree standing by Porquessing creek, from thence northwest by north by the land of John Ellis, eight hundred and eight perches, to a corner marked tree; from thence southwest and by south by a line of marked trees, twentie perches to corner marked tree; from thence southeast and by south by William Campian's land, eight hundred perches, to a corner marked tree, standing by the afore mentioned Potquessing creek; thence along the severall courses thereof to the place of beginning, containing and laid out for one hundred acres of land, granted by a warrant from Captain William Markham, deputie governor and commissioner, bearing date the eleventh day of the seventh month, 1682, and laid out by order of the surveyor generall the eighteenth instant, unto Daniel Jones, purchaser, and the said Daniel Jones, requesting us to confirm the same by patent, know yee, that by virtue of our commission from the proprietarie and governor, we have given, granted and confirmed, and by these presents for him and his heirs doe give, grant, and confirm, unto the said Daniel Jones, his heirs and assigns, forever, the said one hundred acres of land, to have, hold, and enjoy the said land to the onlie use and behoof of the said Daniel Jones, his heirs and assigns, forever; to be holden of the proprietarie and his heirs as of the mannor of Springettsberrie, in the countie aforesaid, in free and common soccage by fealtie onlie, it being sealed and improved according to regulation; yielding and paying therefor to the proprietarie and his heirs, att or upon the first day of the first month in evrie yeare, att Philadelphia, one English silver shilling for the said lott, to such person or persons as shall be from time to time appointed for that purpose.

In witness whereof we have caused these our letters to be made patents, at Philadelphia, the nineteenth day of the eleventh month, 1685, being the first year of the king's reign, and the fifth of the proprietarie's government.

JAMES CLAYPOOLE,
ROBERT TURNER.

Sealed with the seal of the province.

Recorded 31st 11th month, 1685.
Recorded in patent book A, vol. I, page 115.

PHILADELPHIA CITY, *ss.*

I, George W. Colladay, recorder of deeds, &c., in and for the said city and county, do certify, that the above and foregoing is a correct

copy of a certain instrument of writing found of record in my office, in patent book A, exemplification of record No. 1, page 94.

Witness my hand and seal of office, this 13th day of June, A. D. 1850.

[L. S.]

GEORGE W. COLLADAY,
Recorder.

IV. *Patent. Commissioners to Daniel Jones.*

1692, Sept. 7. William Penn, absolute proprietor of the province of Pennsylvania, and counties annexed, by his commission, dated the sixteenth day of the tenth month, 1689, unto William Markham, Robert Turner, John Goodson, and Samuel Carpenter, or any three of them, sendeth greeting:

Whereas there is a certain piece of ground in Philadelphia, containing, in breadth, sixty-three foot and a half, and in length two hundred and fifty foot, bounded northward with back lots, eastward with a lot formerly laid out to Thomas Leavesly, southward with Walnut street, and to the westward with John Hodskin's lot, granted by virtue of two warrants from ourselves, the one dated the sixth day of the tenth month, 1690, the other dated the thirty-first day of October, 1691, and laid out by the surveyor general's order, the thirty-first of October, 1691, unto Daniel Jones, renter; and the said Daniel Jones requesting us to confirm the same to him by patent, know ye, that, by virtue of the commission aforesaid, we have given, granted, and confirmed, and by these presents, for the said William Penn, his heirs, and successors, we do give, grant, and confirm, to the said Daniel Jones, his heirs, and assigns, for ever, the said lot; to have, hold, and enjoy the said lot to the said Daniel Jones, his heirs, and assigns, for ever; to be holden of the proprietor and his heirs as of the manor of Springetsberry, in the county aforesaid, in free and common soccage, by fealty only, in lieu of all services, he fencing in and building upon the same according to regulation; yielding and paying therefor to the proprietor and his heirs, at and upon the first day of the first month in every year, at the town of Philadelphia, four shillings (English shillings) and six pence, or value thereof, in coin current, to such persons as shall be, from time to time, appointed for that purpose.

In witness whereof we have caused these our letters to be made patent at Philadelphia, this seventh day of September, being the fourth year of the reign of William and Mary, king and queen of England, &c., and in the twelfth year of the proprietor's government over the said province in America, annoque D. 1692.

SAM. CARPENTER, [L. S.]
WILLIAM MARKHAM, [L. S.]
ROBERT TURNER, [L. S.]
JOHN GOODSON. [L. S.]

Recorded the 31st January, 169$\frac{5}{6}$.
Recorded in patent book A, vol. I, page 328.

PHILADELPHIA CITY, *ss.*

I, George W. Colladay, recorder of deeds, &c., in and for the said city and county, do certify, that the above and foregoing is a correct copy of a certain instrument of writing found of record in my office, in patent book A, exemplification record No. 1, page 235.

Witness my hand and seal of office, this 13th day of June, A. D. 1850.

[L. S.] GEORGE W. COLLADAY, *Recorder*.

V. *Deed. Daniel Jones to Thomas Prichard.*

1685–'6, Feb. 2. This indenture, made this second day of the twelfth month, Februarie, in the year 1685–'6, and first year of ye king's reign, between Daniel Jones, of the town and countie of Philadelphia, cordwayner, of the one part, and Thomas Prichard, of ye said town and countie, also cordwayner, of the other part, witnesseth: That the said Daniel Jones, for and in consideration of the sum of currt. silver money of the said province, to him in hand paid att and before the ensealing and delivrie of these pres'ts by the said Thomas Prichard, the receipt whereof the said Daniel Jones doth hereby acknowledge, and thereof doth acquitt and discharge the said Thomas Prichard, his heirs, executors, and administrators, for ever, by these presents hath given, granted, enfeoffed, and confirmed, and by these pr'sts doth absolutelie give, grant, enfeoff, and confirm, to the said Thomas Prichard, and his heirs and assigns, all that his, the said Daniel Jones, his moitie or half part of one hundred acres of land; which one hundred acres of land is situate, lying, and being in the said countie, beginning att a corner marked tree standing by Pottquessing creek; from thence, northwest and by north, by the land of —— Ellis, eight hundred and eight perches, to a corner marked tree; from thence, southwest and by south, by a line of marked trees, twentie perches, to a corner marked tree; from thence, southeast and by south, by William Campian's land, eight hundred perches, to a corner marked tree standing by the afore and said Potquessing creek; thence, along the several courses thereof, to the place of beginning, containing and laid out for one hundred acres of land, granted by a warrant from Captain William Markham, "dep'tie" governor and "comis'y," dated the tenth day of the 7th month, 1682, and laid out by order of the surveyor general the 18th instant, unto the said Daniel Jones, purchaser, being fourtie-eight acres of the said one hundred acres of land lying next on the said Potquessing creek, up to a corner marked tree by the corner of John Turner's land or fence, to whom the said Daniel Jones hath conveyed fiftie-two acres of land, the other moitie of the said one hundred acres of land, which said fortie-eight acres of land are now in the possession of the said Daniel Jones, by virtue of a patent of confirmation of ye same granted to him, dated the 19th day of ye tenth mo., 1685; recorded in the patent office att Philadelphia, book A, fol. ——, the —— day of the mo. last past; with all houses, gardens, meadows, pastures, inclosures, wasts, woods, ways, waters

water courses, fences, improvements, and appurtenances whatsoever, of the said land, held, used, and enjoyed to and with the same or reputed as any part thereof, and the reversions, rents, and profits of the same; and also all the estate, right, title, and interest of the said Daniel Jones, of, in, and to the said fourtie-eight acres of land; and all deeds, letters patents, scripts, writings, and muniments whatsoever concerning the same premises onlie, or onlie anie part thereof. To have, hold, and enjoy the said fortie-eight acres of land and premises aforesaid to the said Thomas Prichard, his heirs and assigns forever, to the use of him, the said Thomas Prichard, his heirs and assigns forever: and the said Daniel Jones doth for himself, his heirs and assigns, covenant and agree, to and with the said Thomas Prichard, his heirs and assigns, as follows, that is to say, that the said Daniel Jones, his heirs and assigns, to their proper use, are now and att the ensealling and delivrie hereof, doe stand and is seized, and untill the estate hereby to be granted shall be seatled in the said Thomas Prichard, shall so remain seized of the premisses of a perfect estate of inheritance to him and his heirs forever, in his right, and to his use, wt'out anie condition or limita'on of anie uses or estates in or to anie person whatsoever which may afterwards alter, defeat, void, or evict the same: and that hee hath power to alien the premises to the said Thomas Prichard and his above said: and that the said Daniel Jones hath not done, nor suffered to be done, anie act, matter, or thing whatsoever, whereby the said granted premises, or anie part thereof, is, are, shall, or may be anie wise chairged or incumbred in any title, charge, estate, or otherwise howsoever, other than the rents thereout issuing to the chief lord of the fee of the premises: and that the said Daniel Jones, his heirs and assigns, shall and will, at any time during the space of seven year now next ensuing the date hereof, att the request and chairges of the said Thomas Prichard, make, doe, and execute all such further and other lawful conveyances and assurances in the law whatsoever, for the further assuring and conveying of the said granted premises to the said Thomas Prichard, his heirs and assigns, and for their onlie use and behoof forever, according to the true meaning hereof, as by the said Thomas Prichard, his heirs or assigns, or their counsel learned in the law, in that behalf, shall be reasonablie required or devised, so as the persons to whom such request shall be made be not compellable to travell above twelve miles from their abode for the doing and performing thereof, and so as the same contain no other warrantie than is herein before expressed.

In witness whereof the pairties first above named have to these present indentures their hands and seals interchangeablie sett, and putt the day and date first above said.

DANIEL JONES.
(Sealed with his seal.)

Sealed and delivered in the presence of
THO. HOOTEN,
JOHN HART.

Third 12th mo., 1685. Acknowledged in open court, certified under the clerk's hand and countie seal.

PAT. ROBINSON, *S. E. Com.*

Sealed with the countie seal.
Recorded 16th 12th mo., 1685.

CITY OF PHILADELPHIA, *ss.*

I, George W. Colladay, recorder of deeds, &c., in and for the said city and county, do certify, that the above and foregoing is a true copy of a certain instrument of writing, found of record in my office in deed book E, No. 1, vol. 5, page 197, &c.

Witness my hand and seal of office, this 23d day of July, A. D. 1850.

[L. S.]

GEO. W. COLLADAY,
Recorder.

VI. *Deed. John Hodgkinson to Daniel Jones.*

1686, July 27. This indenture, made this 27th day of 5th mo., July, 1686, in the second year of reign of James the II, of England, and king, between John Hodgkinson, of the countie of Chester, in the province of Pennsilvania, in the p'ts of America, innkeeper, of the one part, and Daniel Jones, of the town and countie of Philadelphia, cordwayner, of the other part, witnesseth: That for and in consideration of the sum of six pounds ten shillings, law'll money of the said province, in hand paid,or secured to be paid, by the said Daniel Jones unto the said John Hodgkinson, the receit whereof the said John Hodgkinson doth hereby acknowledge, and yreof doth acquitt, exonerate, and discharge the said Daniel Jones, his heirs, exec's, and admin'rs, forever by these p'snts, he the said John Hodgkinson hath given, granted, aliened, bargained, sold, enfeoffed, and confirmed, and by these p'nts doth absolutlie give, grant, alien, bargain, sell, enfeoff, and confirm, unto the said Daniel Jones, his heirs and assigns, a certain lott of land in the citie of Philadelphia, situate between the fourth and fifth streets from Delaware, containing in breadth fourtie-nyne foot and a half, and in length two hundred and twentie foot, bounded northward with back lotts, eastward with a vacant lott, southward with Wall-nutt street, westward with said Daniel Jones' lott, granted by a warr'nt from Wm Penn, proprietaire and governor of the said province, ye 9th 2d mo., 1683, and laid outt by the surveyor-generall's order the first day of the 1st mo., 1684, to the said John Hodgkinson, purchaser, with all its rights, members, improvements and app'tenances whatsoever, held, used, and enjoyed the said lott, or reputed as anie part of the same, and the reversions, remainders, rents, and profits yreof, and also all the estate, right, title, interest, use, possession, propertie, claim, and demand whatsoever of him, the said John Hodgkinson, of, in, and to the said p'mises, and all deeds, grants, chartes, letters patents, escripts, and other evidences and writings concerning the said premises onlie, or onlie

anie part yreof, all which are scituate, lying and being as is aforesaid, and are now in the tenure, possession, and occupation of the said John Hodgkinson, by virtue of a patent of confirmation granted to him, his heirs and assigns yrin named by said Wm. Penn, dated 13th 5th mo., 1684, recorded in the patent office at Philadelphia, book A, fol. 157, ye 8th day of 5th mo., July, 1686. To have and to hold the said lott of land and premises aforesaid, and evrie part and parcell of the same to him, the said Daniel Jones, his heirs and assigns forever, att or under the yearly rent to become due unto the chief lords of the soile of the said lands and premisses; and the said John Hodgkinson doth covenant, promise, and grant, for himselfe and his heirs, that they the said lott of land and premises unto him, the said Daniel Jones and his heirs, against him, the said John Hodgkinson and his heirs, as also ag't all other persons claimng by, from, or under him or his heirs, or by their means, privitie, consent, or procurement, shall and will warrant and forever defend by these presents; and that the said John Hodgkinson hath not done, acted, nor suffered anie act, matter, or thing whatsoever, whereby the said granted premises, or anie part yreof is, are, can, shall, or may be by anie means annulled, impeached, charged, or incumbered, in anie manner of wise; and yt he, the said John Hodgkinson, his heirs and assigns, shall and will, att anie time w'tin seven years, at the request and charges of the said Daniel Jones, his heirs and assigns, make, doe, and execute all such further and other acts, things, conveyances, and assurances in the law whatsoever, for the further assuring and conveying of the s'd lott of land and premisses to the s'd Daniel Jones, his heirs and assigns, as by the said Daniel Jones, his heirs or assigns, or by his or yre counsell learned in the law shall be law'llie and reasonablie devised, advised, or required, so as the p'sons thus requested be not compelled for the doing yreof "to travel above miles from ye re'ive habita'ns, at ye time of such request made, and so as the same contain no other warrantie nor cov't than is before more full; and this indenture further witnesseth, that hee, the said John Hodgkinson, hath made and hereby dothe make Edw'd Greene to be his attornie, to appear at ye next countie court to be held for countie of Philad.; and yr in pres. of s'd court to declare, acknowledge and deliver to the s'd Daniel Jones, or his certain attornie, this p'nt deed, according to law. In witness whereof, ye p'ties first above named to this p'nt inden., ye hands and seals interchangeably have set and put ye date first above w'ttin.

JOHN HODGKINSON.
(Sealed with his seal.)

Sealed and delivered in presence of—
HENRY FLOWER,
PAT. ROBINSON.

5th 6th mo., '84. Acknowledged in open court, certified under the clerk's hand and seal of ye countie.

PAT. ROBINSON. [L. S.]
(Com'g, sealed w't the county seal.)

Recorded 25th Augt.. 1686.

PHILADELPHIA CITY, *ss.*

I, George W. Colladay, recorder of deeds, &c., in and for the said city and county, do certify, that the above and foregoing is a true copy of a certain instrument of writing found of record in my office, in deed book E, No. 1, vol. 5, page 410, &c.

Witness my hand and seal of office, this second day of August, anno domini 1850.

[L. S.] GEORGE W. COLLADAY,
Recorder.

VII. *Deed poll. John Green to Daniel Jones.*

1692, 6 mo. 1. Know all men that John Green, of Bucks county, taylor, for the consideration of eight pounds, current money of Pennsylvania, to him paid by Daniel Jones of Philadelphia, cordwiner, the receipt whereof he doth hereby acknowledge, hath given, granted, enfeoffed, and by these presents confirmed, unto the said Daniel Jones, all that lott of land in Philadelphia, containing in breadth seventy-ffour ffoot, and in length two hundred ffifty-ffive ffoot; bounded northward with back lotts, eastward with the ffourth street from Delaware, southward with Wallnutt street, and westward with a vacant lott, granted by a warrant from the proprietary, afterwards confirmed by patent from the said proprietaryes commissioners, dated the ffour and twentieth day of the eight month, 1691, unto one Thomas Livezey and his heirs forever, who sold and conveyed the said lott and premisses to the said John Green and his heirs forever, as appears by deed duly executed under the hands and seals of the said John Green and one Hugh Marsh, acknowledged in the county court, held at Philadelphia on the twentyeth day of the tenth month, 1683, being the day of the date thereof; to have and to hold the said lott of land and premisses, with its appurtenances, unto the said Daniel Jones and his heirs, to the use of him, the said Daniel Jones, his heirs and assignees forever, under the yearly quitt rent thereof accrueing to the said proprietary and his heirs; and the said John Green and his heirs, the said granted lott and premisses, with the appurtenances, unto the said Daniel Jones and his heirs, against him and his heirs, and against all other person or persons whatsoever lawfully claiming or to claime by, from, or under him, them, or any of them, shall and will warrant and forever defend by these presents; and hath made John White, his attorney, to deliver these presents in open court, according to law. In witness whereof,

he hath hereunto set his hand and seal, the ffirst day of the sixth month, anno dmi. 1692.

JOHN GREEN. [L. S.]

Sealed and delivered in the presence of—
THOMAS DEMS.
The mark of—
RICHARD WARDINTON.

Acknowledged in open court, held at Philadelphia, on the 7th day of the first month, 1693.

Witness JOHN WHITE, *Dep't Clerk* and county seal. [L. S.]

Recorded the 31*th* 11 mo., $169\frac{5}{6}$.

PHILADELPHIA CITY, *ss.*

I, George W. Colladay, recorder of deeds, &c., in and for the city and county of Philadelphia, do certify, that the above and foregoing is a true copy of a certain instrument of writing, found of record in my office, in deed book E, No. 2, vol. 5, page 293.

[L. S.] Witness my hand and seal of office, this 25th day of June, A. D. 1850.

GEORGE W. COLLADAY,
Recorder.

VIII. *Deed poll. Daniel Jones to David Loyde.*

1699, June 23. Know all men, that Daniel Jones, of Philad'a, cordwainer, for the consideration of eleven pounds, current silver money of Pennsylvania, to him paid by David Loyde, of Philadelphia, gent., the receipt whereof he doth hereby acknowledge, hath given, granted, sold, and confirmed, unto ye said David Loyd, all that lot of land in Philad'a, cont'g in breadth forty-nine foot and a half, and in length two hundred and twenty foot, bounded northward with a back lot, eastward with a vacant lot, southward with Walnut street, and westward with the Fifth street from Delaware, with all ways, paths, rights, privileges, improvements, and appurtenances whatsoever thereunto belonging, and all patents, deeds, and writings concerning the same, which said granted prem's he, ye said Daniel Jones, purchased of Caleb Pusey, who had the same granted unto him by patent from William Penn, dated the 24th day of the fourth month, 1684, recorded in patent book A, page 48; to have and to hold the said lot of land and premises, with their appurtenances, unto the said David Loyd and his heirs, to the use of him, the said David Loyd, his heirs and assigns, for ever; and the said Daniel Jones and his heirs the said lot of land and premises, with their appurtenances, unto ye said David Loyd and his heirs, as well against him, the said Daniel Jones and his heirs, as against all other p'sons whatsoever, shall and will warrant and for ever

defend by these presents; and hath made Thomas Curtis his attorney to deliver these presents in open court, according to law.

In witness whereof he hath hereunto set his hand and seal, the three and twentieth day of June, anno domini 1696, and [L. S.] in the eighth year of the reign of King William the Third over England, &c.

DANIEL JONES.

Sealed and delivered in the presence of—
BIZAILLON HUGH BAWDEN.

Acknowledged in open court, held at Philadelphia, the ffourth day of August, 1696, as witness my hand and county seal.
[L. S.] JOHN CLAYPOOLE, *Clerk*.

Recorded 27th October, 1740.

PHILADELPHIA, *ss*.

I, George W. Colladay, recorder of deeds, &c., for the city and county of Philadelphia, do certify, that the above and foregoing is a true copy of a certain instrument of writing remaining in my office, [in] deed book G, No. 2, page 299, &c.

Witness my hand and seal of office, this first day of August, A. D. 1850.
[L. S.] GEORGE W. COLLADAY,
Recorder.

IX. *Deed poll. Daniel Jones to Charles Sober.*

1797, April 6. Know all men, that Daniel Jones, of Philadelphia, in the province of Pennsylvania, cordwainer, for the consideration of ffive pounds, of lawful silver money of the said province, to him in hand paid by Charles Sober, of Philadelphia aforesaid, doctor of physick, the receipt whereof he doth hereby acknowledge, and thereof, and of every part thereof, doth acquit, exonerate, and for ever discharge the said Charles Sober, his heirs, executors, and administrators, and every of them, by these presents, he, the said Daniel Jones, hath given, granted, enfeoffed, and by these presents confirmed, unto him, the said Charles Sober, all that piece of ground situate, lying, and being on the west side of the ffourth street, in Philadelphia aforesaid, and at the back or further ends of the said Charles Sober, Robert Buroughs, and the lott that was Luff's, containing in length, by the ends of the aforesaid lotts, and in breadth, down the said Daniel Jones's lotts—the length is one hundred and fifty ffoot, and the breadth is seventy-six ffoot; bounded northward with the back ends of the said Charles Sober's, Robert Burrough's, and Luff's lotts, eastward with the said ffourth street, and to ye southward and westward with the remainder of the said Daniel Jones's lotts, one of which lotts was confirmed unto Thomas Livesly, his heirs and assigns, for ever, by patent; who, together with one Hugh Marsh, sold the same to John Green, and by the

said Green the same was absolutely confirmed unto the said Daniel Jones, his heirs and assigns, for ever, by a deed duely executed and recorded in the roll's office at Philadelphia, ye 31st 11 month, 1695–'6, book E 2, vol. 5, fol. 293. The other lott was granted and confirmed as aforesaid unto John Hodgkinson, and recorded in patent office as aforesaid, book A, fol. 157, who assigned all his right unto the said Daniel Jones; and the other lot was confirmed by patent unto the said Daniel, his heirs and assigns, forever; recorded at Philadelphia aforesaid, in book A, fol. 108, as therein may at large appear, with all the rights, members, and appurtenances, to the said piece of ground belonging, or in anywise appertaining; together with all the estate, right, title, and interest of him, the said Daniel Jones, of, in, and to the said hereby granted premises, with all and singular the appurtenances; to have and to hold the said piece of ground before mentioned, with its appurtenances, unto him, the said Charles Sober, and his heirs, to the only proper use and behoof of him, the said Charles Sober, his heirs and assigns, forever, freely and clearly acquitted and discharged of all fformer quitt rents, and other incumbrances heretofore due, saveing the rent of two shillings in current silver money, as a proportionate part of the quitt rent from henceforward growing due on the same; and the said Daniel Jones, for himself, his heirs, executors, and administrators, doth covenant, promise, and grant, to and with the said Charles Sober, and his heirs, executors, administrators, and assigns, in manner following, that is to say, that the said Daniel Jones and his heirs, the hereby granted premises, with all the appurtenances, unto him, the said Charles Sober, and his heirs, executors, administrators, and assigns, against him and his heirs, against all and every other person or persons whatsoever, shall and will warrant, under the said rent aforesaid, and forever defend by these presents.

In witness whereof he hath hereunto set his hand and seal, the sixth day of the second month, April, annoque dom. one thousand six hundred ninety and seven. [L. S.] DANIEL JONES.

Sealed and delivered in the presence of us—
HARBERT CORRIE,
JN. BURCH,
FRANCIS COOK.

Acknowledged in open court, held at Philadelphia, the 6th day of April, 1697, as witness my hand and county seal.
[L. S.] JOHN CLAYPOOLE, *Clerk L. S.*

Recorded the 5th day of July, 1739.

PHILADEPHIA CITY, *ss.*

I, George W. Colladay, recorder of deeds, &c., in and for the said city and county, do certify, that the above and foregoing is a true copy of a certain instrument of writing, found of record in my office, in deed book G 2, page 56, &c.

Witness my hand and seal of office, this 23d day of July, anno domini 1850.

[L. S.]

GEORGE W. COLLADAY,
Recorder.

X. *Deed poll. Daniel Jones to Charles Sober.*

1697, April 27. Know all men, that Daniel Jones, of Philadelphia, in the province of Pennsylvania, cordwainer, ffor the consideration of eight pounds, of lawful silver money of the said province, to him in hand paid by Charles Sober, of Philadelphia aforesaid, doctor of physick, the receipt whereof he doth hereby acknowledge, and thereof, and of every part thereof, doth acquit, exonerate, and forever discharge the said Charles Sober, and his heirs, executors, and administrators, and every of them, by these presents, he, the said Daniel Jones, hath given, granted, enfeoffed, and by these presents confirmed, unto him, the said Charles Sober, all the remaining part of two lotts, situate on the west side of the Fourth street, in Philadelphia aforesaid, adjoyning to the other part of same lotts, lately confirmed to the said Charles Sober by the said Daniel Jones; which said piece of lotts hereby granted is in breadth one hundred thirty-seven and a half ffoot, and the whole is in length two hundred and ffifty foot, whereof seventy-six from off the length, and one hundred and eighteen foot from off the breadth, is already granted as aforesaid; one of which lotts was granted by patent unto Thomas Livesly, who sold the same unto John Green, who, together with one Hugh Marsh, sold the same unto the said Daniel Jones; the other lott was granted and confirmed by patent unto the said Daniel Jones, his heirs and assigns, forever, as by the several patents and grants may more fully and at large appear; all which remainder of the said two lotts is bounded to the northward with the other part already sold the said Charles Sober, and other back lotts; eastward, with the said Ffourth street; southward, with Wallnutt street; and to the westward with other of the said Daniel Jones's lotts; with all ways, wastes, easements, improvements, and other the appurtenances thereunto belonging, or in anywise appertaining; together with all the estate, right, title, interest, claim, and demand whatsoever, of him, the said Daniel Jones, of, in, and to the said hereby granted premises, with its appurtenances: To have and to hold all the remainder of the said two lotts of ground and premises hereby granted, with all and singular the appurtenances, and all deeds and writings concerning the same, unto him, the said Charles Sober, and his heirs, to the only proper use and behoof of him, the said Charles Sober, his heirs and assigns, forever, under the yearly quitt rents thereof, accruing to the proprietary and his heirs ffor the hereby granted premises. And the said Daniel Jones, and his heirs, executors, and administrators, doth covenant, promise, and grant, to and with the said Charles Sober, and his heirs, executors, administrators, and assigns, by these presents, in manner following, that is to say, that he, the said Daniel Jones and his heirs, the hereby

granted piece or parcell of the said two lotts of ground and premises, with their appurtenances, unto him, the said Charles Sober, and his heirs, executors, administrators, and assigns, against him, the said Daniel, and his heirs, and against him, the said Thomas Livesly, Hugh Marsh, and John Green, and their heirs, and against all and every other person or persons whatsoever, claiming or to claim, by, from, or under him, them, or any of them, or by any of their means, shall and will warrant and forever defend by these presents. And the said Daniel Jones doth hereby constitute his attorney to acknowledge this deed in open court, according to law, unto him, the said Charles Sober, or to his certain attorney.

In witness whereof he hath hereunto sett his hand and seal, this twenty-seventh day of the second month, April. annoque dom. one thousand six hundred ninety and seven.

The words (thirty-seaven) altered or made soe in ye ninth line, before sealing hereof.

DANIEL JONES. [L. S.]

Sealed and delivered in the presence of
HARBERT CORNE,
ROBART ROW,
FRANCIS COOKE.

Acknowledged in open court, held at Philadelphia the 6th day of July, 1697, as witness my hand and county seal.

JOHN CLAYPOOLE,
[L. S.] *Clerk.*

Recorded the 5th day of July, 1739.

PHILADELPHIA CITY, *ss.*

I, George W. Colladay, recorder of deeds, &c., in and for the said city and county, do certify, that the above and foregoing is a correct copy of a certain instrument of writing, found of record in my office, in deed book G, No. 2, page 57, &c.

Witness my hand and seal of office this second day of July, A. D. 1850.

GEORGE W. COLLADAY,
[L. S.] *Recorder.*

XI. *Deed poll. John Haywood, administrator of Daniel Jones and Hugh Jones, to Wm. Alberson.*

1699, 3 mo., 28. To all to whom these presents shall come, John Haywood, of Philadelphia, cordwainer, and administrator of the estate of Daniell Jones, late of Philadelphia, deceased, and Hugh Jones, son and heir of the sd. Daniel Jones, of the same place, cordwainer, sendeth greeting. Whereas there is a certain lott of land in Philadelphia afores'd, containing in breadth sixty-two foott, and in length two hundred and ffifty-five foott, bounded northward with back

lotts, eastward with vacant lotts, southward with Walnutt street, and westward with a vacant lott, granted by pattent from under the hand of the proprietr, recorded in the office of rolls, at Philadelphia, ye 30, 5 month, 1684, fol. 6, as allso another lott of land granted to ye sd. Daniel Jones, by patent, under the hands of the commissione's, containing in breadth thirty-seven ffoot, in length two hundred ffifty-five foott, bounded northward with back lotts, eastward with the sa'd Daniell Jones's lotts, southward with Walnutt street, and westward with a vacant lott, and recorded in the patent office as afores'd, in book A, ffol. 108; as also another lott laid out ye survey'r generall, order ye 28th, 3d mo., 1691, unto ye sd. Daniell Jones, by virtue of a warr't from the commissioners, containing in breadth fforty-nine ffoot and a halfe, and in length two hundred and ffifty foott, bounded northward with back lotts, eastward with a vacant lott, southward with sa'd Walnutt street, and westward with John Hodgkin's lott; as also a lott of land purchased by the s'd Daniel Jones of John Hodgkins, of Chester, as by deed bearing date ye 7th day of July, 1686, and acknowledged in open court the 5th 6 mo., and year afores'd, containing in breadth fourty-nine ffoot and a halfe, and in length two hundred and twenty ffoot bounded northw'd with back lotts, eastw'd with a vacant lott, southw'd with Walnutt street, and westw'd with s'd Daniell Jones's lott, as in the s'd patent's returne and deed may more appear. And whereas there is a certain messuage or tenem't, together with part and p'rcell of the above lotts, containing in breadth ffronting ye sd. Walnutt street one hundred sixty-ffive ffoots, and in length, adjoining to Charles Sober's ground, had of the s'd Daniel Jones, one hundred seventy-seven ffoot north 18 degrees east, thence west 18 degrees north, eleven ffoot and a halfe, thence north 18 degrees east, by the same lott, seventy-ffive ffoot to the *the* back lotts belonging to Chesnut street, thence by the same west 18 degrees north, one hundred fifty-three ffoot and a halfe, thence south eighteen degr's west, down to ye s'd Walnutt street, surveyed by David Powell, ye 26th of 3d mo., 1699. And whereas the s'd John Haywood, administrat'r afores'd, att a court of comon pleas, held at Philadelphia afores'd ye 9th day of March, 1698–'9, obtained an order (as by a coppy thereof under the clerk's hand) upon consideracon therein menconed, itt was ordered by ye s'd court that John Haywood should sell the houses and lott afores'd, and imploy the money to pay ye decedent's debts, ye and remainder to the children of the s'd Daniel Jones and their use. Now, know yee, that I, the s'd John Haywood, together with the s'd Hugh Jones, for the consideracon of ninety pounds, curr't money of Pennsilvania, to me in hand payd by William Alberson, of Philadelphia afores'd, yeoman, the receipt whereof we doe hereby acknowledge, have given, granted, enfeoffed, and by these pr'sents confirmed, unto him, ye s'd William Alberson, all the above menconed messuage or tenement, together with the (revercons) lotts last above described, now in the tenure of him, the said Wm. Alberson, with all the buildings, improvements, privileges, and appurtenances thereunto belonging or

appertaining, as also all the estate, right, title, interest, of the s'd John Haywood and Hugh Jones, of, in, and to ye s'd pr'mises, and all deeds, patents, evidences, and writeings concerning the same. To have and to hold the s'd messuage or tenem'nts, lotts and premises, hereby granted, with all and every other ye appurtenances unto him, ye s'd Wm. Alberson and his heirs, to ye only proper use of him, ye s'd Wm. Alberson, his heirs and assignes forever, under the yearly quit rent from henceforward growing due on the same; and that we, the s'd John Haywood and Hugh Jones, in our severall capacities, do covenant, promise, and grant, to and with the s'd Wm. Alberson and his heirs, executors, administrat'rs, and assignes, that we, the s'd John Haywood and Hugh Jones, and our heirs, the hereby granted messuage or tenem't, with all the appurtenances to him, ye s'd William Alberson, his heirs and assigns, against us and our heirs, and ag'st the said Daniel Jones and his heirs, and ag'st the s'd Jo'n Hoskins and his heirs, and ag'st all other persons whatsoever, lawfully claiming or to claim, by, from, or under them, us, or any of us or them, shall and will warr't, in our several capacities respectively, and forever defend by these pr'sents.

In witnesse whereof we have hereunto sett our hands and seals, the twenty-ninth day of the third month, in the eleventh year of the reign of King William the third, over England, &c., anno d'ni 1699.

[L. S.] JOHN HAYWOOD,
[L. S.] HUGH JONES.

Sealed and delivered in ye pr'sence of—
ROBERT HUTCHINSON,
FRANCIS COOKE.

Acknowledged in ye county co'rt, held at Philadelphia, ye 8th of ye 4th month, 1699, as witness my hand and county seal.

[L. S.] DA'D LOYD,
C't of com. pleas.

Recorded ye 12th 5th mo., 1699.
Copied from original record, page 295.

PHILADELPHIA, *ss.*

I, George W. Colladay, recorder of deeds, &c., for the city and county of Philadelphia, do certify, that the above and foregoing is a true copy of a certain instrument of writing remaining of record in my office, in deed book E 3, vol. 5, exemplification record, No. 7, page 398, &c.

[L. S.] Witness my hand and seal of office this second day of August, A. D. 1850.

GEORGE W. COLLADAY,
Recorder.

XII. *Deed poll. Wm. Alberson to Jeremiah Gatchell.*

To all people to whom these presents shall come:

1703, April 21. William Alberson, of Philadelphia, in the province Pennsilvania, yoman, sends greeting: and whereas John Haywood, of Philadelphia afores'd, cordwiner, as administrat. of the estate of Daniel Jones, late of Philadelphia afores'd, cordwiner, dec'd, together with Hugh Jones, son and heir of the s'd Daniel Jones, by his deed poll, dated the twenty-ninth day of the third month, an'a do'i 1699, for the consideration therein mentioned, (reciting as aforesaid recited,) did grant, bargain, sell, and convey, unto the s'd William Alberson, all that messuage or tenement, and piece of ground thereunto belonging, situate on the north side of Wallnut street, in Philadelphia afores'd, containing in breadth, fronting the s'd street, one hundred sixty-five foot, extending in length north eighteen degrees, along by Charles Sober's ground, one hundred and seventy-seven foot; thence west eighteen degrees north, eleven foot and six inches; thence north eighteen degrees east by the same lott, seventy-five foot to the back lotts belonging to Chesnut street; thence by the same west eighteen degrees north, one hundred fifty-three foot and six inches; thence south eighteen degrees west, down to the s'd Walnut street, being the remaining part of severall lotts of land unsold by the s'd Daniel Jones in his lifetime, so sold s'd William Alberson, his heirs and assigns forever, as by the deed poll acknowledged in court, and recorded in rolls office at Philadelphia, in book E. J., vol. 5, page 295, may at large appear. Now ye, that the said William Alberson, for the consideration of ninety-five pounds of lawful money of Pensilvania, to him paid by Jeremiah Gatchell, of Philadelphia afores'd, wheelwright, the receipt whereof he, the s'd William, doth hereby acknowledge, and thereof doth acquitt and discharge the s'd Jeremiah Gattchell, his heirs, executors, and assigns, by these presents hath granted, bargained, sold, aliened, enfeoffed, and confirmed, and hereby doth grant, bargain, alien, enfeoff, and confirm, unto the s'd Jeremiah Gatchell, all and singular the s'd messuage or tenement, together with all the buildings, gardens, orchards, lights, easements, rights, privileges, improvements, and appurtenances whatsoever, thereunto belonging or in anywise appertaining, and the reversions and remainders, rents, issues, and profits thereof, and all deeds, evidences, and writings concerning the same. To have and to hold the said messuage or tenement and piece of ground aforesaid, and all other the premises hereby granted, with their appurtenances, unto the said Jeremiah Gattchell and his heirs, to the use of him, the said Jeremiah Gatchell, his heirs and assigns forever, under the proportion*abion*able part of the quit rent hereafter accruing for the same to the lords of the ffee thereof; and the s'd William Alberson and his heirs, the s'd messuage or tenement and piece of ground and premises hereby granted, with their appurtenances, unto the s'd Jeremiah Gatchell, his heirs and assigns, against him, the s'd William, and against all other persons whatsoever, lawfully claiming or to claim by, from, or under him, them,

or any of them, shall and will warrant and forever defend by these presents; and the said William Alberson, for himself, his heirs, executors, administrators, and assigns, doth covenant, grant, and agree, to and with the said Jeremiah Gatchell, his heirs, executors, and assigns, by these presents, that he, the s'd William Alberson and his heirs, and all and every other person and persons, anything having or lawfully claiming of, in, or to the s'd messuage, piece of ground, and premises, or any part thereof, shall and will, at any time within seven years now next ensuing, upon the reasonable request, costs, and charges in the law, of the s'd Jeremiah Gatchell, his heirs or assigns also, do execute and acknowledge so to be all and every such reasonable act and acts, deed or deeds, for the further and better assurance of the s'd messuage, piece of ground, and other the premises hereby granted, with their appurtenances, unto the said Jeremiah Gatchell, his heirs and assigns, as by him or them, or by his or their counsell learned in the law, shall be reasonably devised, advised, or required; and the said William Alberson hath made David Lloyd his attorney, to deliver this deed in court as the law directs.

In witness whereof he hath hereunto set his hand and seal, dated the one and twentieth day of the second month, called April, in the year of our Lord one thousand seven hundred and three.

[L. S.] WILLIAM ALBERSON.

Sealed and delivered in the presence of us—
JNO. PRONSE,
GRIMSTONE BOUDE,
EPH. JOHNSTON.

Acknowledged in the court of common pleas, at Philadelphia, the ninth day of September, 1703, certifyd under my hand and county seal.

[L. S.] ROB. ASHETON,
Prothon'y.

May the twenty-fourth, one thousand seven hundred and four. I do hereby acknowledge to have rece'd of Jeremiah Gatchell ninety-five pounds, being the within mentioned consideration money.

Witness my hand: WILLIAM ALBERSON.

Witness—JNO. PRONSE,
EPH. JOHNSON.

Recorded June 3d, 1839.

PHILADELPHIA CITY, *ss.*

I, George W. Colladay, recorder of deeds, &c., in and for the said city and county, do certify, that the above and foregoing is a true copy of a certain instrument of writing, found of record in my office, in deed book G. S., No. 5, page 354, &c.

Witness my hand and seal of office, this second day of August, [L. S.] anno domini 1850.

GEORGE W. COLLADAY,
Recorder.

XIII. *Deed. Jeremiah Gatchell to Elisha Gatchell.*

[1783] Oct. 26. This indenture, made the twenty-sixth day of October, in the twelfth year of the reign of our sovereign, Lady Ann, Queen of Great Britain, France, and Ireland, annog ding 1713, between Jeremiah Gatchell, of the city of Philadelphia, in the province of Pensilvania, wheelright, of the one part, and Elisha Gatchell, son of the said Jeremiah Gatchell, of the city aforesaid, cordwainer, of the other part. Whereas, William Alberson, late of the city of Philadelphia, aforesaid, Yeoman, deceased, by his certain deed poll, bearing date the one and twentieth day of Aprill, in the year of our Lord one thousand seven hundred and three, for the consideration therein mentioned, did grant and convey unto the said Jeremiah Gatchell a certain messuage or tenement and piece of ground thereunto belonging, scituate on the north side of Wallnut street, in Philadelphia aforesaid, containing in breadth, ffronting the said Wallnut street, one hundred and sixty five ffoot, and extending in length north eighteen degrees east, along by Charles Sobers' ground, one hundred [and] seventy-seven ffoot; thence eighteen degrees north, eleven ffoot six inches; thence north eighteen degrees east, by the same lott, seventy-ffive foot to the back lotts, belonging to Chesnut street; thence by the same, west eighteen degrees north, one hundred [and] ffifty-three ffoot and six inches; thence south eighteen degrees west, down to the said Walnut street, being the remaining part of severall lotts of land formerly belonging to Daniel Jones, of Philadelphia, aforesaid, deceased, and unsold by him in his lifetime; to hold to the said Jeremiah Gatchell, his heirs and assigns forever, under the proportionable part of the quit rent from thenceforth accrueing for the same to the lord of the fee thereof, as by the said deed poll acknowledged in the court of common pleas at Philadelphia aforesaid, the ninth day of September, annoye ding, 1703. Certified under the hand of the clerk or prothonotary of the said court and county seal, relation being had more fully appears. Now this indenture witnesseth, that the said Jeremiah Gatchell, as well for and in consideration of the natural love and affection which he hath and beareth unto his son, the said Elisha Gatchell, as for the consideration of ffive shillings, current money of the province Pensilvania aforesaid, to him paid by the said Elisha Gatchel, the receipt whereof he doth hereby acknowledge, and thereof doth acquit, exonerate, release, and discharge the said Elisha, his heirs, executors, and administrators, and every of them forever, by these presents, and for divers other good causes and valuable considerations him, the said Jeremiah, thereunto specially moving, hath granted, bargained, sold, aliened, enfeoffed, and confirmed, and by these presents doth ffreely, clearly, and absolute-

ly grant, bargain, sell, alien, enfeoff, and confirm, unto the said Elisha Gatchel, all and singular, the said messuage or tenement and lott of land aforesaid, scituate, bounded, and being as is herein before set forth and described; together, also, with all and singular the buildings, gardens, orchards, lights, easements, ffences, ways, water-courses, rights, liberties, privileges, improvements, commodities, hereditaments, and appurtenances thereunto belonging, or in anywise appertaining, or reputed as part or parcel or member thereof or therewith, usually held, occupied, or enjoyed, and the reversion and remainder, rents, issues, and profits thereof, and also all the estate, right, title, interest, use, property, claim, and demand whatsoever of him, the said Jeremiah Gatchel, of, in, and to the said messuage or tenement, lott of land, and all and singular other the hereditaments and premises whatsoever, with their and every of their appurtenances, and all deeds, evidences, and writings whatsoever, concerning the same; to have and to hold the said messuage or tenement, and lott or piece of ground, with all and singular other the hereditaments and premises herein before granted, with their and every of their appurtenances, unto the said Elisha Gatchel and his heirs, to the only proper use, benefit, and behoof of him, the said Elisha Gatchel, his heirs and assigns forever, without any manner of condition of redemption or revocation whatsoever, in any wise, under the yearly quit rent, to become due and payable for the said lott or piece of ground after the decease of the said Jeremiah Gatchel. But, nevertheless, it is the true intent and meaning of these presents, and of the parties hereunto, and the said Elisha Gatchel, for himself, his heirs and assigns, doth covenant, promise, and grant, to and with his ffather, the said Jeremiah Gatchel, that he, the said Elisha Gatchel, his heirs and assigns, shall and will permit and suffer the said Jeremiah Gatchel, during his life, peaceably to have, hold, use, possess, and enjoy the said messuage or tenement, piece of ground and premises, and to receive and take the rents and profits thereof, without any account to be rendered to him, the said Elisha Gatchel, his heirs or assigns, for the same or any part thereof; and further, the said Elisha Gatchel, for himself, his heirs, executors, administrators, and assigns, doth covenant, promise, and grant, to and with the said Jeremiah Gatchel, his heirs, executors, and administrators, by these presents, that in case the said ffather shall make any additional building or improvements to or upon the said messuage or tenement or piece of ground afore mentioned, saving the needful reparations which are or shall be necessary to preserve and keep in tenantable repair the buildings already erected, then and in that case the said Elisha, his heirs or assigns, shall and will pay unto his two sisters, that [is] to say, Sarah Gatchel and Lydia Gatchel, daughters of the said Jeremiah Gatchel, or to the survivor of them, within one year after the same shall come into his full and legall possession by the death of his said ffather, the value of all such additional building and improvements, as the same shall be valued and apprised by ffour judicious and impartial men, indifferently to be chosen for that purpose, whereof two shall be chosen by the said Elisha Gatchel,

his heirs and assigns, and the other two by the said Sarah Gatchel and Lydia Gatchel, or the survivor of them; and, moreover, shall permit and suffer the said Sarah and Lydia, or either of them, in case they remain single and unmarried at the death of their said ffather, to continue to dwell in the said messuage or tenement the term of one whole year after the death of their said ffather, without paying any rent for the same, and without any molestation of the said Elisha, his heirs or assigns, or of any other, by his or their means, consent, or procurement; and the said Jeremiah Gatchell, and his heirs, the said messuage or tenement, lott or piece of ground, and all and singular other the hereditaments and premises hereby granted, or mentioned, or intended to be granted, with their and every of their appurtenances, unto the said Elisha Gatchell, his heirs and assigns for ever, against the said Jeremiah Gatchell, his heirs and assigns, and against the said William Alberson, his heirs and assigns, and against all and every other person and persons lawfully claiming or to claim by, from, or under him, them, or any, or either of them, or by, from, or under the heirs or assigns of Daniel Jones, deceased, shall and will warrant and for ever defend, by these presents; and the said Jeremiah Gatchel, for himself, his heirs and assigns, executors and administrators, doth covenant, promise, and grant, to and with the said Elisha Gatchell, his heirs and assigns, by these presents, that the said Jeremiah Gatchel is the true and undoubted owner of the said messuage, or tenement, lott, or piece of ground, and all and singular other the hereditaments and premises hereinbefore granted, with the appurtenances; and that he, the said Jeremiah Gatchel, now hath good right, full power, and lawful authority in himself to bargain, sell, grant, alien, enfeoff, and convey the said messuage or tenement, and lott or piece of ground, hereditaments, and premises hereinbefore granted, with all and singular the appurtenances, unto the said Elisha Gatchell, his heirs and assigns for ever, in manner and form aforesaid; and that he, the said Elisha Gatchel, his heirs and assigns, shall or lawfully may, from and immediately after the decease of the said Jeremiah Gatchel, from time to time, and at all times thereafter, for ever, freely, quietly, and peaceably have, hold, use, occupy, possess, and enjoy the said messuage or tenement, and lott or piece of ground, hereditaments, and all and singular other the premises hereby granted, with their, and every of their appurtenances, and the rents, issues, and profits thereof to receive and take, without any lett, suit, trouble, molestation, or hinderance of him, the said Jeremiah Gatchel, his heirs or assigns, and without the lawful lett, suit, trouble, molestation, or hinderance of any other person or persons whatsoever; and that the said messuage or tenement, lott of ground, hereditaments, and premises hereby granted, and every part thereof, now is, and from and after the decease of the said Jeremiah Gatchel, shall remain, continue, and be unto the said Elisha Gatchell, his heirs and assigns for ever, free and clear, and freely and clearly acquitted and discharged of and from all and all manner of former and other bargain, sales, gift, grant, joynture, dower, mortgage, intail, annuities,

rents, arrearages of rent till the time of decease, and also estate, charge, and incumbrance whatsoever; and also that he, the said Jeremiah Gatchell and his heirs, and all and every other person and persons, having or lawfully claiming which, shall or may at any time hereafter, have, or lawfully claim, any estate, right, title, or interest, of, in, or to the said messuage or tenement, lott or piece of ground, hereditaments, and premises hereinbefore granted, with their, and every of their, appurtenances, or to any part thereof, by, from, or under him, shall and will, at any time hereafter, upon the reasonable request, costs, and charges in the law, the said Elisha Gatchel, his heirs or assigns, make, do, suffer, acknowledge, and execute, or cause to be made, done, suffered, acknowledged, and executed, all and every such further and other lawful and reasonable act and acts, deed and deeds, conveyances and assurances in the law whatsoever, for the better and more absolute and effectual conveying, assuring, and confirming of the said messuage or tenement, lott or piece of ground, and all and singular other the hereditaments and premises hereby granted, with their and every of their appurtenances, unto the said Elisha Gatchel, his heirs and assigns, as by the said Elisha Gatchel, his heirs and assigns, or by his or their councill learned in the law, shall be reasonably devised or advised and required.

In witness whereof the said parties to these presents have hereunto their hands and seals interchangeably set, dated the day and year first above written.

JEREMIAH GATCHELL. [L. S.]

Sealed and delivered in the presence of us:
JOHN WILLIAMSON,
JEREMIAH GATCHELL, jr.,
JOSEPH WILLCOX,
ANN WILCOX.

The thirty-first day of March, anno do'i one thousand seven hundred and thirty-five, before me, Charles Read, esq., one of the justices of peace for the city and county of Philadelphia, came Sarah Bryant, of the said city, widow, and upon her solemn affirmation, according to law, did depose and declare (this writing indented being thereon unto her) that she doth verily believe that the same writing was sealed and delivered in the pres'nce of Joseph Willcox and Ann Willcox, this affirmant's father and mother, by ye aboves'd Jeremiah Gatchell, as within mentioned. The reason of such this affirmant's belief being that she was well acquainted with the handswriting of her said father, Joseph Willcox, and mother, Ann Willcox, in their lifetime, (they being now both deceased,) and findeth a similitude between such their writing, and their name respectively subscribed as witnesses to the sealing and delivery of the above written indenture. And this affirmant further saith not.

SARAH BRYANT.

Affirmed the day and year aboves'd, before me. Witness my hand and seal.

CHA. READ. [L. S.]

Recorded June 3d, 1839.

PHILADELPHIA CITY, *ss.*

I, George W. Colladay, recorder of deeds, &c., in and for the said city and county, do certify, that the above and foregoing is a true copy of a certain instrument of writing found of record in my office, deed book G. S., No. 5, page 356, &c.

Witness my hand and seal of office, this 2d day of August, 1850.

GEORGE W. COLLADAY,
Recorder.

XIV. *Deed. Elisha Gatchell to Simon Edgell.*

1721, Aug. 25. Be it remembered, that the twenty-third day of November, anno d'ni, one thousand seven hundred and twenty-one, Clement Plumsted, one of the justices of the peace of the city and county of Philadelphia, certifieth and recordeth here, that the same day and year before him, the said justice, at Philadelphia aforesaid, came Elisha Gatchell in his proper person, and brought before the said justice Charles Brockden, recorder of deeds for the said city and county, being present, the writing or conveyance herein next after entered of record, which he acknowledged to be his deed, and desired that the same may be enrolled or recorded as his deed, according to an act of assembly of this province lately made and provided. Whereupon the said justice, having certified the said acknowledgem't made the day and year in manner and form aforesaid, under his hand and seal, as the said act directed, did deliver the said writing to the said Charles Brockden, to be entered of record, and the same is recorded in these words: This indenture, made the twenty-fifth day of August, in the year of our Lord one thousand seven hundred and twenty-one, between Elisha Gatchell, of Notingham, in the county of Chester, in the province of Pensilvania, gent., of the one part, and Simon Edgell, of the city of Philadelphia, in the said province, pewterer, of the other part, witnesseth: That the said Elisha Gatchell, for and in consideration of the payment of the rent and performance of the covenants and agreem'ts hereinafter mentioned and reserved, hath granted, bargained, sold, aliened, enfeoffed, and confirmed, and by these presents doth grant, bargain, sell, alien, enfeoff, and confirm, unto the said Simon Edgell all that his, the said Elisha Gatchell's messuage or tenem't and tract or piece of ground thereunto belonging, situate on the north side of Wallnutt street, in Philadelphia aforesaid, containing, in breadth, fronting the said street, one hundred and sixty-five foot, and for length extending by Charles Sober's ground, viz., north eighteen degrees east, one hundred and seventy-seven foot, west eighteen degrees north, eleven foot six inches, and north eighteen degrees east, seventy-five foot, or

somewhat more unto, Joshua Carpenter's lot; thence by the same west eighteen degrees north, one hundred and fifty-three foot and six inches; thence by other ground south eighteen degrees west, two hundred and fifty-five foot, or somewhat more, unto the said street; together, also, with all and singular other the buildings, improvem'nts, gardens, orchards, ffences, ways, waters, water-courses, rights, liberties, privileges, hereditam'ts, and appurtenances whatsoever unto the same premises belonging or in anywise appertaining, and the reversion and reversions, remainder and remainders, rents, issues, and profits thereof. To have and to hold the said messuage or tenem'nt, piece of ground, hereditaments, and premises hereby granted, or mentioned to be granted, with the appurtenances, unto the said Simon Edgell, his heirs and assigns, to the only proper use and behoof of the said Simon Edgell, his heirs and assigns forever, yielding and paying yearly, and every year forever hereafter, unto the said Elisha Gatchell, his heirs and assigns, the rent or sum of tenn pounds six shillings and three pence sterling, money of Great Britain, or value thereof in coin current in the said province, on the twenty-fifth day of May and twenty-fifth day of November, by even and equal portions yearly, forever; the first payment thereof to be made on the twenty-fifth day of May, which will be in the year of our Lord one thousand seven hundred and twenty-two. And if it shall happen the said yearly rent of tenn pounds six shillings and three pence hereby reserved, or any part thereof, to be behind and unpaid at or after any the days or times before appointed for payment thereof, being lawfully demanded, that then and from thenceforth, from time to time, when and so often as the same shall be so behind and unpaid, at or after any the days or times before appointed for payment thereof, it shall and may be lawful to and for the said Elisha Gatchell, his heirs and assigns, or any of them, into the said messuage or tenem'nt, piece of ground, hereditam'ts, and premises hereby granted, or mentioned to be granted, and into the messuages or tenem'ts, or other buildings thereon erected, or to be erected, and into every or any part or parcel thereof, to enter and distrain, and the distress and distresses then and there found and taken to take, lead, drive, or carry away, and the same to detain, impound, and keep, at the proper risque and charges of the said Simon Edgell, his heirs or assigns, for and during the term of tenn days; and if, within the said term of tenn days, payment and satisfaction of the said rent and arrearages thereof (if any) be not made, then or at any time thereafter, it shall and may be lawful to and for the said Elisha Gatchell, his heirs and assigns, or any of them, the said distress and distresses to expose and sell by public auction or vendue, for the best price that can reasonably be gotten for the same, and after paym'nt and satisfaction of the said rent and arrearages, (if any,) and all charges of distress, deteinure, and sale are first deducted, the overplus (if any) to return to the said Simon Edgell, his heirs or assigns. But, if distress sufficient to satisfy the said rent and arrearages thereof cannot be found and taken in or upon the said granted premises, then it shall and may be lawful to and for the said

Elisha Gatchell, his heirs and assigns, or any of them, into and upon the said messuage or tenement, tract or piece of ground, hereditam'ts, and premises hereby granted, or mentioned to be granted, and into the messuages or tenem'ts and other buildings thereon erected, or to be erected, and into every or any part or parcel thereof, with the appurtenances, wholly to re-enter, and the same from thenceforth quietly and peaceably to have again, retain, repossess, and enjoy, as in his or their former estate, untill the said rent, and all arrearages thereof, shall be fully satisfied and paid. And the said Simon Edgell, for himself, his heirs and assigns, doth covenant, promise, and grant, to and with the said Elisha Gatchell, his heirs and assigns, and every of them, by these presents, that he, the said Simon Edgell, his heirs and assigns, shall and will, from time to time, and at all times hereafter, well and truly pay, or cause to be paid, unto the said Elisha Gatchell, his heirs and assigns, the said yearly rent or sum of tenn pounds six shillings and three pence, hereby reserved, at the days and times hereinbefore appointed for payment thereof, in manner and form aforesaid, without fraud or further delay. And the said Elisha Gatchell and his heirs, the said messuage or tenement, tract or piece of ground, hereditam'ts, and premises hereby granted, or mentioned to be granted, with the appurtenances, unto the said Simon Edgell, his heirs and assigns, against him, the said Elisha Gatchell and his heirs, and against all and every other person and persons whatsoever, shall and will, on paym't of the rent, and performance of the covenants and agreem'ts afores'd, warrant and forever defend by these presents. And the said Elisha Gatchell, for himself, his heirs, execut'rs, and administrat'rs, and for every of them, doth covenant, promise, and grant, to and with the said Simon Edgell, his heirs and assigns, by these presents, in manner following, that is to say, that he, the said Elisha Gatchell, now at the time of the sealing and delivery of this present indenture, is the true, sole, and lawful owner and proprietor of the said messuage or tenement, and tract or piece of ground, hereditam'ts, and premises hereby granted, or mentioned to be granted, and is lawfully and rightfully seized thereof, and of every part and parcel thereof, as of a good, sure, absolute, and indefeasible estate of inheritance in fee simple, without any manner of condition, contingent, proviso, limitation, or other restraint, matter, or thing whatsoever, to defeat, alter, or change, make void, or determine the same. And that the said Elisha Gatchell shall continue so seized of the premises, and of every part and parcel thereof, until a good, sure, perfect, and indefeasible estate of inheritance, in fee simple, shall be thereof vested in the said Simon Edgell and his heirs, according to the purport and true meaning of these presents. And that the said Elisha Gatchell, now at the time of the sealing and delivery of this present indenture, hath in himself good right, full power, lawful and absolute authority to grant, bargain, sell, and convey the said messuage or tenement, tract or piece of ground, hereditam'ts, and premises hereby granted, or mentioned to be granted, with the appurtenances, unto the said Simon Edgell, his heirs and assigns, in manner and

form aforesaid. And that ffree and clear, and ffreely and clearly, acquitted and discharged of and from all and all manner of former and other gifts, grants, bargains, sales, leases, mortgages, joyntures, dowers, wills, intails, anuities, rents, arrearages of rents, titles, troubles, charges, claims, and demands, burdens, and incumbrances whatsoever, (the said yearly rent of tenn pounds six shillings and three pence hereby reserved unto the said Elisha Gatchell, his heirs and assigns, as aforesaid, only excepted and foreprized.) And that all and every person and persons whatsoever, having, or lawfully claiming, or that shall or may at any time or times hereafter so have or claim, any estate, right, title, or interest, of, in, or to the premises, or any part or parcel thereof, shall and will, at any time or times hereafter, upon the reasonable request, cost, and charges in law of the said Simon Edgell, his heirs or assigns, make, execute, and acknowledge, or cause to be made, executed, and acknowledged, all and every such further and other reasonable act and acts, deed or deeds, device or devices, in law whatsoever, for the further and better assurance and confirmation of the said messuage or tenem't, piece of ground, hereditam'ts and premises, hereby granted, or mentioned to be granted, with the appurtenances, under the rent and the covenants and agreem'ts afores'd, by and on the part and behalf of the said Simon Edgell, his heirs, executors, administrators, and assigns, unto him, the said Simon Edgell, his heirs and assigns, as by him or them, or by his or their council learned in the law, shall be reasonably devised, advised, or required.

In witness whereof the said parties to these presents have interchangeably set their hands and seals hereunto, dated the day and year first above written.

[L. S.]

ELISHA GATCHELL.

Sealed and delivered in the presence of us—
CHA. OSBORNE,
JOS. WATSON.

PHILADELPHIA CITY, *ss.*

I, George W. Colladay, recorder of deeds, &c., in and for the said city and county, do certify, that the above and foregoing is a true copy of a certain instrument of writing found of record in my office, in deed book F, No. 3, page 257, &c.

Witness my hand and seal of office, this 29th day of July, anno domini 1850.

[L. S.]

GEORGE W. COLLADAY,
Recorder.

XV. *Deed. Simon Edgell to Elisha Gatchell.*

1735, Nov. 14. This indenture, made the fourteenth day of November, in the year of our Lord one thousand seven hundred and thirty-five, between Simon Edgell, of the city of Philadelphia, in the

province of Pennsylvania, pewterer, and Rebecca, his wife, of the one part, and Elisha Gatchell, of Nottingham, in the county of Chester, in the said province, gent., of the other part. Whereas the said Elisha Gatchell, by indenture of the twenty-fifth of August, one thousand seven hundred and twenty-one, did grant the messuage or tenement and piece of ground thereunto belonging, situate, bounded, and being as hereinafter described, unto the said Simon Edgell, in fee, paying yearly unto the said Elisha Gatchell, his heirs and assigns, the yearly rent of ten pounds six shillings and three pence, sterling money, or value thereof in coin current in the said province on the twenty-fifth day of May and twenty-fifth of November, by equal portions yearly, forever, with divers covenants and clauses of re-entry and distress, and for payment of the same rent, as by the said recitel indenture, relation thereunto had, appears. Now this indenture witnesseth, that the said Simon Edgell, and Rebecca, his wife, for and in consideration of the extinguishment of the aforesaid rent, and of the sum of five shillings to them paid by the said Elisha Gatchell, the receipt whereof is hereby acknowledged, have granted, bargained, sold, released, and confirmed, and by these presents do re-grant, bargain, sell, release, and confirm, unto the said Elisha Gatchell, all that the said messuage or tenement and piece or tract of ground thereunto belonging, situate on the north side of Walnut street, in Philadelphia, aforesaid, containing in breadth, fronting the said street, one hundred [and] sixty-five *foot*, and for length, extending by Charles Sober's ground, viz., north eighteen degrees east, one hundred [and] seventy-seven *foot*, west eighteen degrees north, eleven *foot* six inches, and north eighteen degrees east, seventy-five *foot*, or somewhat more, unto Joshua Carpenter's lot; thence by the same west eighteen degrees north, one hundred [and] fifty-three *foot* and six inches; thence by other ground south eighteen degrees west, two hundred [and] fifty-two *foot*, or somewhat more, unto the said street, together also with all and singular the buildings, improvements, gardens, orchards, fences, ways, waters, water-courses, rights, liberties, privileges, hereditaments, and appurtenances whatsoever unto the same premises belonging, and the reversions and remainder thereof, and all the estate, right, title, interest whatsoever of him, the said Simon Edgell and Rebecca, his wife, of, in, and to the same premises, together with the said recited indenture: to have and to hold the said messuage, piece of ground, hereditaments, and premises hereby granted (or mentioned to be granted,) with the appurtenances, unto the said Elisha Gatchell, and his heirs, to the use and behoof of him, the said Elisha Gatchell, his heirs and assigns forever, under the yearly quit rent or quit rents accruing for the hereby granted premises to the chief lord of the fee hereof; and the said Simon Edgell, and his heirs, the said messuage, piece of ground and premises, hereby granted and released, (or mentioned so to be,) with the appurtenances, unto the said Elisha Gatchell, his heirs and assigns, against him, the said Simon Edgell, and his heirs, and against the said Rebecca, his wife, and against all other person or persons whatsoever, lawfully claiming or to claim,

by, from, or under him, them, or any of them, shall and will warrant and forever defend by these presents; and the said Simon Ednell, for himself, his heirs, executors, and administrators, doth covegant, promise, and grant, to and with the said Elisha Gatchell, his heirs and assigns, by these presents, that he, the said Simon Edgell hath not heretofore done, or wittingly or willingly suffered, any act whereby ye premises hereby granted (or mentioned to be granted,) or any part thereof are, is, or shall or may be impeached, charged, or incumbered, (a certain agreement of the said Simon Edgell with one Thomas Butler for the conveyance, in fee, of twenty-seven *foot* of ground, the westernmost part of the premises, under the yearly ground rent of four pounds one shilling, lawful money of America, which agreement the said Elisha hath undertaken to perform with the said Thomas Butler, only excepted and foreprized.)

In witness whereof the said parties to these presents have interchangeably set their hands and seals hereunto, dated the day and year first above written.

SIMON EDGELL, [L. S.]
REBECCA EDGELL. [L. S.]

Sealed and delivered in the presence of us—
SAM. POWEL, jun'r.
MOSES HEWES,
THOS. HUGHES.

Memorandum.—The fourteenth day of November, A. D. 1735, before me, Edmund Roberts, esq., one of the justices of the peace, came the above named Simon Edgell and Rebecca, his wife, and brought this writing, which they acknowledged to be their deed, and desired the same may be recorded as their deed.

In witness whereof I have hereunto set my hand and seal, the day and year above s'd.

EDWARD ROBERTS. [L. S.]

Recorded ye 29th of November, 1735.

PHILADELPHIA CITY, *ss.*

I, George W. Colladay, recorder of deeds, &c., in and for the said city and county, do certify, that the above and foregoing is a true copy of a certain instrument of writing found of record in my office, in deed book F, No. 8, page 317, &c.

Witness my hand and seal of office, this 29th day of July, A. D. 1850.

[L. S.] GEORGE W. COLLADAY,
Recorder.

Thomas Karr, his heirs and assigns, under the yearly rent, covenants, and clauses as aforesaid, as by him or them, or by his or their council, learned in the law, shall be resonably devised, advised, or required.

In witness whereof the said parties to these presents have interchangeably set their hands and seals hereunto, dated the day and year first above written.

ELISHA GATCHELL, [L. S.]
RACHEL GATCHELL. [L. S.]

Sealed and delivered in the presence of us—
By ELISHA GATCHELL,
C. BROCKDEN,
JNO. ORD.

The 29th day of May, anno dom. 1741, before me, Clem. Plumsted, esqr., one of the justices, &c., came the above named Elisha Gatchell, and acknowledged the above written indenture to be his deed, and desired the same may be recorded as his deed. Witness my hand and seal the day and year above said.

CLEM'T PLUMSTED. [L. S.]

Rec'd ye 29th March, ao. di. 1757.

PHILADELPHIA CITY, *ss.*

I, George W. Colladay, recorder of deeds, &c., in and for the said city and county, do certify, that the above and foregoing is a true copy of a certain instrument of writing, found of record in my office, in deed book H, No. 7, page 484, &c.

Witness my hand and seal of office, this 29th day of July, anno domini 1850.

[L. S.] GEORGE W. COLLADAY, *Recorder*.

XVII. *Deed Poll. Sheriff Coultas to Charles Norris.*

In the court of common pleas for the city and county of Philadelphia, among other things, it is thus contained:

Docket entry, June term, 1756.

EDWARD MITCHELL, ex.,
vs.
JEREMIAH BROWN and al., ex. } 159.

Sum. served by Mitchell. Judgment nisi. Rec'd fees.

17th June, 1756, exit fi. fa. per cur. judgt. dam. 62, wt. of atty, 6. B. is 18–2—18th Sept., 1756, exit vend. ex. inc. 9—9.

MITCHELL
vs. } 159.
BROWN.

Vend. exp. Sold, deed drawn.

EDWARD MITCHELL & Eliz., his wife, vs. JEREMIAH BROWN and al., ex'rs. } 9th December, 1756.

James Coultas, esq., high sheriff of the city and county of Philadelphia, acknowledged in open court a deed for conveying unto Charles Norris, of the city of Philadelphia, esq., and to his heirs and assigns, all that lot or parcel of land situate on the north side of Walnut street, in the city of Philadelphia, containing in front on the said street (including two lots of ground subject to two several rent charges of four pounds and one shilling, and five pounds fifteen shillings per annum,) one hundred and sixty-five feet, and in depth from the said street backwards two hundred and fifty-five feet, bounded on the east by John Sober's land; on the west with lands late of Simon Edgell; on the north with land of Charles Norris, and on the south with Walnut street aforesaid; and also one yearly rent charge of four pounds and one shilling, and one other yearly rent charge of five pounds and fifteen shillings, respectively, issuing and payable out of the two lots of ground aforesaid, one of them by Thomas Butler, his heirs and assigns, and the other of them by Thomas Kerr, his heirs and assigns, being late the estate of Elisha Gatchell, deceased, seized and taken in execution at the suit of Edward Mitchell and Elizabeth, his wife, and sold to Charles Norris, he being the highest bidder, for the sum of five hundred and thirty pounds, lawful money of Pennsylvania. Dated the fourth day of December, in the year of our Lord one thousand seven hundred and fifty-six.

I, James Vinyard, prothonotary of the court of common pleas for the city and county of Philadelphia, do certify, that the foregoing is a true copy of the docket entries in the case of Edward Mitchell and Elizabeth, his wife, *vs.* Jeremiah Brown, of the terms of June and December, 1756, and of the deed in said case executed by James Coultas, high sheriff of the county of Philadelphia, to Charles Norris, as the same remains filed in this office.

Witness my hand and the seal of said court, this twenty-sixth day of July, anno domini one thousand eight hundred and fifty.

JAMES VINYARD, *Prothonotary*.

XVIII. *Deed. Sarah King and others to Mary Jenkins.*

1773, Oct. 4. This indenture, made the fourth day of October, in the year of our Lord one thousand seven hundred and seventy-three, between Sarah King and Christina Dowdell, of the city of Philadelphia, in the province of Pennsylvania, widows, William Dunwrick, of the same place, gunsmith, and Catharine, his wife, Samuel King, of the same place, taylor, and Sarah, his wife, and James Skinner, of the same place, shopkeeper, and Mary, his wife, of the one part, and Mary Jenkins, of the same city, widow, of the other part; whereas, in and by a certain indenture, bearing date the fourth day of February, 173 , made, or mentioned to be made, by and between Elisha Gatchell, of

Nottingham, in the county of Chester, gent., of the one part, and Thomas Butler, of the said city of Philadelphia, laborer, of the other part, he, the said Elisha Gatchell, did grant, bargain and sell, release, and confirm, unto the said Thomas Butler, a certain messuage or tenement and lot or piece of ground thereunto belonging, situate on the north side of Walnut street, in the said city, containing in breadth east and west twenty-seven feet, and in length or depth one hundred and twenty-four feet, together with the appurtenances, to hold to him, the said Thomas Butler, his heirs and assigns, forever, yielding and paying unto the said Elisha Gatchell, his heirs and assigns, the yearly rent or sum of four pounds one shilling, lawful money of America, on two days of payment in the year, that is to say, the sixteenth day of May and sixteenth day of November, by even and equal portions yearly, forever. By virtue of which said recited indenture he, the said Thomas Butler, became in his lifetime lawfully seized in his demesne as of fee of and in the said tenement and lot of ground, with the appurtenances, subject to the ground rent aforesaid, and being so seized thereof, died intestate, leaving issue one son, named John, and three daughters, to wit, the said Sarah King, the elder, Christina Dowdell, parties hereto, and Martha, the mother of the said William Dunwick, and Sarah King, the younger, parties hereto; and the said John Butler also died intestate, leaving issue two sons, William Butler and Thomas Butler, (who are both under age,) and one daughter, namely, the said Mary Skinner, party hereto. Now this indenture witnesseth, that the said Sarah King, Christina Dowdell, William Dunwick and Catharine, his wife, Samuel King and Sarah, his wife, and James Skinner and Mary, his wife, for and in consideration of the sum of two hundred and forty-five pounds, lawful money of Pennsylvania, unto them at or immediately before the sealing and delivery hereof by the said Mary Jenkins well and truly paid, the receipt whereof is hereby acknowledged, have granted, bargained, and sold, aliened, enfeoffed, released, and confirmed, and by these presents do, and each of them doth, grant, bargain, and sell, alien, enfeoff, release, and confirm, unto the said Mary Jenkins, and to her heirs and assigns, all the parts, purparts, shares, and dividends of them; the said Sarah King, the elder, Christina Dowdell, William Dunwick, Sarah King, the younger, and Mary Skinner, of and in the aforesaid lot or piece of ground, twenty-seven feet front on Walnut street, and in depth one hundred and twenty-four feet, bounded westward and northward with ground late of Charles Norris, esq., deceased, eastward by the messuage and lot of the widow Hopkinson, and southward by Walnut street aforesaid, together with all the rights, members, and appurtenances whatsoever unto the several parts and shares hereby granted belonging, and the reversions and remainders, rents, issues and profits thereof, and all the estate, right, title, interest, property, claim, and demand whatsoever of them, the said Sarah King, the elder, Christina Dowdell, William Dunwick and Catharine, his wife, Samuel King and Sarah, his wife, and James Skinner and Mary, his wife, and of every of them of, in, and

to the whole messuage or tenement and lot of ground herein above described, and of, in, and to every part and parcel thereof; to have and to hold all and singular the premises hereby granted, with the appurtenances, unto the said Mary Jenkins, her heirs and assigns, to and for the only proper use and behoof of the said Mary Jenkins, her heirs and assigns, forever, under the yearly ground rent in and by the above recited indenture reserved, so as the same from henceforth shall grow due and payable. And whereas all the parties to this indenture of the first part have, for the consideration above mentioned, undertaken to sell to the said Mary Jenkins not only their own shares but also the parts, purparts, shares, and dividends of them, the said William Butler and Thomas Butler, minor children of the said John Butler, deceased, and to keep or secure for these children their proportionable part of the consideration money aforesaid, to be paid to them with interest when they successively arrive at the age of twenty-one years. Now this indenture further witnesseth, that the Sarah King, the elder, Christina Dowdell, William Dunwick, Samuel King and Sarah, his wife, James Skinner and Mary, his wife, have covenanted, promised, granted, and agreed, and by these presents do jointly and severally covenant, promise, grant, and agree, to and with the said Mary Jenkins, her heirs and assigns, in manner and form following, that is to say, that they, the aforesaid William Butler and Thomas Butler successively, each of them when he shall have arrived at the age aforesaid, or if they or either of them happen to die during his or their minority, then the heir or heirs of such deceased shall, for the consideration aforesaid, and of five shillings, grant, bargain, sell, convey, and assure all the parts, purparts, shares, and dividends of them, the said William Butler and Thomas Butler, and their heirs, of and the aforesaid lot of twenty-seven feet front on Walnut street by one hundred and twenty-four feet, with the appurtenances, unto the said Mary Jenkins, her heirs and assigns, by such deed or deeds, conveyance or conveyances, and assurances in the law as she, the said Mary Jenkins, her heirs or assigns, or her or their council learned in the law, shall reasonably advise or require; and that she, the said Mary Jenkins, her heirs or assigns, shall or lawfully may from time to time, and at all times hereafter forever, peaceably and quietly have, hold, use, possess, and enjoy all and singular the aforesaid whole lot of twenty-seven feet by one hundred and twenty-four feet, with the appurtenances, without the lawful let, suit, trouble, molestation or eviction of them, the said Sarah King, Christina Dowdell, William Dunwick, Samuel King and Sarah, his wife, James Skinner and Mary, his wife, William Butler and Thomas Butler, sons of John Butler, deceased, and their or any of their heirs; and lastly, that they, the said Sarah King, the elder, and her heirs, Christina Dowdell and her heirs, William Dunwick and his heirs, Samuel King and Sarah, his wife, and her heirs, James Skinner and Mary, his wife, and her heirs, the aforesaid whole lot of twenty-seven feet by one hundred and twenty-four feet, with the appurtenances, against them, the said Sarah King the elder, Christina Dowdell, William Dunwick, Samuel King and

Sarah, his wife, James Skinner and Mary, his wife, and their heirs, and against all and every other person or persons whatsoever, lawfully claiming or to claim any estate, right, or title in the said whole lot or any part thereof, under them or either of them, or under the heirs of Thomas Butler, the first purchaser, or of his son, the said John Butler, deceased, shall and will warrant and forever defend by these presents. In witness whereof the said parties to these presents have interchangeably set their hands and seals hereunto, dated the day and year first above written.

her
SARAH X KING, [L. S.]
mark.
her
CHRISTINA X DOWDELL, [L. S.]
mark.
WILLIAM DUNWICK, [L. S.]
CATHARINE DUNWICK, [L. S.]
SAMUEL KING, [L. S.]
her
SARAH X KING, [L. S.]
mark.
JAMES SKINNER, [L. S.]
MARY SKINNER. [L. S.]

Sealed and delivered in the presence of us—
JOHN ROSS,
GEORGE GRAY.

Received the day of the date of the within written indenture of the within named Mary Jenkins the sum of two hundred and forty-five pounds, lawful money of Pennsylvania, it being the full consideration money within mentioned. We say received per—

her
SARAH X KING,
mark.
her
CHRISTINA X DOWDELL,
mark.
WILLIAM DUNWICK,
CATHARINE DUNWICK,
SAMUEL KING,
her
SARAH X KING,
mark.
JAMES SKINNER,
MARY SKINNER.

Witnesses present at signing—
JOHN ROSS,
GEORGE GRAY.

The fourth day of October, a'o d'i 1773, before me, Samuel Mifflin, esq., one of his majesty's justices of the county court of common pleas, &c., came the above named Sarah King, the elder, Christina Dowdell, William Dunwick and Catharine, his wife, Samuel King and Sarah, his wife, and James Skinner and Mary, his wife, and severally acknowledged the above written indenture to be their act and deed, and desired the same to be recorded as such. The said Catharine Dunwick, Sarah King, jun., and Mary Skinner, being, in pursuance of an act of assembly of this province lately made by me, separately and apart from their husbands examined, did each of them declare and say that they did voluntarily and of their own free will and accord (being of full age) seal, and as their act and deed deliver, the same indenture without any coercion or compulsion of their said husbands. In testimony whereof I have hereunto set my hand and seal the day and year aforesaid.

SAML. MIFFLIN. [L. S.]

Recorded 23d December, 1773.

PHILADELPHIA CITY, *ss.*

I, George W. Colladay, recorder of deeds, &c., in and for said city and county, do certify, that the above and foregoing is a true copy of a certain instrument of writing found of record in my office, in deed book I, No. 12, page 154, &c.

Witness my hand and seal of office, this 29th day of July, A. D. 1850.

GEORGE W. COLLADAY, [L. S.]
Recorder.

XIX. *Deed of partition of the estate of Charles Norris.*

1788, May 24. This indenture, in five parts, made the twenty-fourth day of May, in the year of our Lord one thousand seven hundred and eighty-eight, between the parties following, to wit: Mary Norris, widow, relict of Charles Norris, late of the city of Philadelphia, esquire, of the first part, Isaac Norris, eldest son of the said Charles Norris, of the second part, George Logan, of Stenton, in the northern liberties, of the said city of Philadelphia, esquire, and Deborah, his wife, daughter of the said Charles Norris, of the third part, Joseph Parker Norris, second son of the said Charles Norris, of the fourth part, and Charles Norris, third son of the said Charles Norris, deceased, of the fifth part: Whereas the said Isaac Norris, George Logan and Deborah, his wife, Joseph Parker Norris, and Charles, parties hereto, by the advice and assistance of their respected friends, Doctor Charles Moore, Richard Wells, Samuel Pleasants, and Charles Jervis, have unanimously, among themselves, made partition of all the residue of all their deceased father's real estate, and have also agreed with their honored

mother, the said Mary Norris, to pay her, in lieu of dower, for and out of such lands and tenements as now yield, or hereafter by alienation or sale may yield, yearly rents, interest, or income, such certain sums of money or annuities as are hereinafter stated and stipulated to be paid for their respective allotments, and to the end and purpose that the aforesaid partition may effectually be established, and the parties to the same may in severalty hold each of them, his or her heirs, the lands and tenements in his and her allotment comprised, fully released and discharged from the claims of the others of them. This indenture witnesseth, that the said George Logan and Deborah, his wife, Joseph Parker Norris, and Charles Norris, in consideration of the feoffment and release which their brother Isaac Norris has made to them and their heirs respectively of his share in the lands and tenements by the said partition to them respectively allotted; and the said George Logan and Deborah, his wife, moreover, in consideration of the sum of forty-six pounds eight shillings, which, for owelty of partition, the said Isaac Norris has paid to them, the receipt whereof is hereby acknowledged, have bargained and sold, enfeoffed, assigned, released, and confirmed, and by these presents do bargain and sell, enfeoff, assign, release, and confirm, unto the said Isaac Norris, his heirs and assigns, all and every the part and parts, share and shares, dividend and dividends, estate and estates, reversions and remainders, rights, title, interest, claim, and demand whatsoever of them, the said George Logan and Deborah, his wife, Joseph Parker Norris, and Charles Norris, and every of them, of, in, and to the lands, tenements, and hereditaments herein next after mentioned, that is to say, of, in, and to one capital messuage or tenement, and lot of ground thereunto belonging, situate in the said city of Philadelphia, on the south side of Chesnut street, beginning at a stake at the distance of one hundred and thirty-nine feet two inches from the southeast corner of Chesnut and Fifth street; thence by the allotment of George Logan and Deborah, his wife, southwardly, two hundred and twenty-five feet, to a court in this place of fifty feet wide; thence, on the same, eastwardly, one hundred and fifteen feet four inches to a stake in Andrew Caldwell's line; then by his lot, northward, one hundred and thirty-three feet, westward seven feet, and northward ninety-two feet, to Chesnut street; thence by the same street, westward, one hundred and eight feet four inches, to the beginning. To have and to hold the said capital messuage or tenement, lot or lots of ground, hereditaments and premises, hereby granted and released unto the said Isaac Norris, his heirs and assigns, to the only proper use and behoof of the said Isaac Norris, his heirs and assigns in severalty forever, as his full share and dividend of and in all the residue of the lands and tenements late of his said father, Charles Norris; and that the said Isaac Norris, Joseph Parker Norris, and Charles Norris, in consideration of the feoffment and release, which to them and their heirs respectively the said George Logan and Deborah, his wife, have made of her share in the lands and tenements, by the said partition to them respectively allotted, have bargained and sold, enfeoffed, assigned, released,

and confirmed, and by these presents do bargain and sell, enfeoff, assign, release, and confirm, unto the said George Logan and Deborah, his wife, her heirs and assigns, all and every the part and parts, share and shares, dividend and dividends, estate and estates, reversions and remainders, right, title, interest, claim, and demand whatsoever of them, the said Isaac Norris, Joseph Parker Norris, and Charles Norris, and every of them, of, in, and to the lands, tenements, and hereditaments herein after next mentioned, that is to say, one piece or parcel of ground, situate on the south side of the said Chesnut street, containing in breadth, on the same, eighty-three feet six inches, and in length or depth two hundred and twenty-five feet; bounded eastward by the said Isaac Norris, his allotment, southwardly partly by the said forty feet wide avenue, leading from Fifth street to the said court, westward by the said Charles Norris his allotment, and northward by the said Chesnut street; one other piece or parcel of ground, situate on the south side of the said fifty feet wide court, containing in breadth on the same sixty-five feet, and in length or depth one hundred and eleven feet; bounded eastward by another lot of the said George Logan and Deborah, his wife, herein next after described, southward by Francis Johnson's and William Kenly's ground, westward by the said Charles Norris, his allotment in Walnut street lots, and northward by the said fifty feet wide court; one other piece or parcel of ground, situate on the north side of Walnut street, containing in breadth, on the same, twenty-five feet four inches and a half, and in length or depth two hundred and thirty-five feet; bounded eastward by another piece of the said Charles Norris, his allotment in Walnut street lots, northward by the said fifty feet wide court, westward by the said Logan and wife's lot, herein next before described, and partly by the said Francis Johnson's lot, and southward by the said Walnut street; also four yearly ground rents, one thereof of five pounds fourteen shillings, reserved and issuing out of the before mentioned lot thirty-eight feet, fronting on Walnut street, and in depth one hundred and twenty-four feet, now in the tenure of the said Francis Johnson; one other yearly ground rent of four pounds one shilling, reserved and issuing out of the before mentioned lot of twenty-seven feet, fronting the said Walnut street, and in depth one hundred and twenty-four feet, now in the tenure of the said William Kinley; one other yearly ground rent of four pounds ten shillings, reserved and issuing out of a lot of ground at Kensington, in the northern liberties of the city of Philadelphia, containing, in breadth, one hundred feet, and in length one hundred and forty feet, bounded on the west by Crown street, on the north by Bedford street, on the east by a lot late of Lucy Bowling, and on the south by ground late of John Mullen, now or late in the tenure of Zachary Endress; and the other of the said four yearly ground rents is eight pounds fifteen shillings, reserved and issuing out of a tract of two hundred acres of land in Plymouth township, lately in the county of Philadelphia, now in the county of Montgomery, and in the tenure of Samuel Davis; also two lots on a cross street of Germantown, one

of them containing fifty-five perches and a quarter, and the other forty-two perches and three-quarters of a perch of land, which James Johnston, of the city of Philadelphia, gentleman, by indenture, under his hand and seal, dated the twenty-third day of December, one thousand seven hundred and sixty-one, conveyed unto Charles Norris, the father, in fee; and also a certain lot or piece of land situate in Marcus Hook, in Chichester township, in the county of Chester, on the southeast side of an alley or lane called Discord lane, containing in breadth on the same sixty feet, and in length two hundred and fourteen feet to high water mark, which lot of ground William Howell, of Chichester aforesaid, shipwright, by indenture, under his hand and seal, dated the twenty-fifth day of January, one thousand seven hundred and fifty-three, granted and conveyed unto the said Charles Norris, in fee. To have and to hold the said Chesnut street lot of eighty-three feet six inches in breadth, and in length two hundred and twenty-five feet; the said lot, on the south side of the fifty feet wide court, sixty-five feet, and in depth one hundred and eleven feet; the said Walnut street lot, in breadth twenty-five feet four inches and a half, and in depth two hundred and thirty-five feet; the said yearly ground rents, amounting in the whole to twenty-three pounds p. annum; the said two lots in Germantown, and the said lot of land in Marcus Hook, hereditaments, and premises, hereby granted and released unto the said George Logan and Deborah, his wife, and the heirs and assigns of the said Deborah, in severalty, forever, as her full share and dividend of and in all the residue of the lands and tenements late of her said father, Charles Norris, deceased; and that the said Isaac Norris, George Logan, and Deborah, his wife, and Charles Norris, in consideration of the feoffment and release which their brother, Joseph Parker Norris, has made to them and their heirs, respectively, of his part and share in the lands and tenements by the said partition to them respectively allotted; and the said George Logan and Deborah, his wife, moreover, in consideration of the sum of two hundred pounds, which for owelty of partition the said Joseph Parker Norris has paid to them, the receipt whereof is hereby acknowledged, have bargained and sold, assigned, enfeoffed, released, and confirmed, and by these presents do bargain and sell, enfeoff, assign, release, and confirm, unto the said Joseph Parker Norris, and to his heirs and assigns, all and every the part and parts, share and shares, dividend and dividends, estate and estates, reversions and remainders, right, title, interest, claim, and demand whatsoever, of them, the said Isaac Norris, George Logan and Deborah, his wife, and Charles Norris, and every of them, of, in, and to the lands, tenements, and hereditaments herein next after mentioned, that is to say, one messuage or tenement and lot or lots of ground situate between Delaware, Front, and Second streets, in the square between Walnut street and Chesnut street in the said city, beginning in Front street, at the corner of Thomas Willing's lot; thence by the west side of the said Front street, northward, sixty-two feet four inches, to a corner of a lot, late of Arthur Holton; thence westward, partly by the same lot, now in the tenor of William Milnor, and

partly by an eleven feet wide alley, extending to Norris's alley one hundred and thirty-one feet; thence by a lot, late of William Pyewell, southward, twenty-nine feet four inches; thence partly by the same lot, and partly by Mary Dickinson's, westward, in a straight line to Second street; thence by the said Second street, southward, thirty-three feet, to Owen Jones's lot; thence partly by the same, and partly by Thomas Willing's lot, in a straight line, to the place of beginning on Front street. To have and to hold the said messuage or tenement, lot or lots of ground, hereditaments and premises, hereby assigned and released unto the said Joseph Parker Norris, his heirs and assigns, to the only proper use and behoof of the said Joseph Parker Norris, his heirs and assigns in severalty, forever, as his full share and dividend of and in the residue of the lands and tenements late of his said father, Charles Norris; and that the said Isaac Norris, George Logan and Deborah, his wife, and Joseph Parker Norris, in consideration of the feoffment and release, which, to them and their heirs respectively, the said Charles Norris has made of his share in the lands and tenements by the said partition to them respectively allotted, have bargained and sold, enfeoffed, assigned, released, and confirmed, and by these presents do bargain and sell, enfeoff, assign, release, and confirm, unto the said Charles Norris, his heirs and assigns, all and every the part and parts, share and shares, dividend and dividends, estate and estates, reversions and remainders, right, title, interest, claim, and demand whatsoever, of them, the said Isaac Norris, George Logan and Deborah, his wife, and Joseph Parker Norris, and every of them, of and in the lands, tenements, and hereditaments herein next after mentioned, that is to say, of and in one lot or piece of ground at the southeast corner of Fifth street and Chesnut street, containing in breadth, on the said Chesnut street, fifty-five feet eight inches, and in length or depth two hundred and twenty-five feet; bounded northward by the said Chesnut street, westward by the said Fifth street, southward by the said alley leading to the fifty feet wide court, and eastward by the allotment of the said George Logan and Deborah, his wife; also one lot or piece of ground, situate on the north side of Walnut street, containing in breadth, on the same, thirty-seven feet nine inches, and in length or depth two hundred and thirty-five feet, bounded eastward partly by the said William Kinley's, and partly by the said George Logan and wife, northward by the said fifty feet wide court, westward by Doctor John Coxe's ground, and southward by the said Walnut street; also one other lot on the north side of the said Walnut street, beginning at the northwest corner of the said Walnut street and a twelve feet wide alley; thence by the said alley one hundred and seventy-seven feet, to a square piece of ground, or court; thence by the same westward eleven feet six inches, and northward by the same and William Bingham's lot, fifty-eight feet; thence by the said fifty feet wide court westward twenty-five feet four inches and a half to the line of the allotments of the said George Logan and Deborah, his wife; thence by the same southward two hundred and thirty-five feet, to

Walnut street; thence by the said street thirty-six feet ten inches and a half to the beginning. To have and to hold the said several lots of ground in Chesnut street and Walnut street, hereditaments and premises, hereby assigned and released, unto the said Charles Norris, his heirs and assigns, to the only proper use and behoof of the said Charles Norris, his heirs and assigns, in severalty, forever, as his full share and dividend of and in the residue of the lands and tenements, late of his said deceased father, Charles Norris.

And this indenture further witnesseth, that it is agreed and concluded upon, by and between the said Mary Norris and her said children, that for and in lieu of her dower in the residue of the estate of her deceased husband, partition whereof is hereby made between them, they are to pay or allow her each such annuity or annuities, during the natural life of the said Mary Norris, as is herein next after mentioned. That is to say, the said Isaac Norris, for and out of his allotment of the said capital, messuage, and lot or lots of ground, hereby released to him, yearly, the sum of thirty-six pounds thirteen shillings and four pence for the present time, and moreover from the time he shall sell for money, or let on ground rent, his lots on the east and west sides of the said messuage, or any part of the same lots, then one-third part of the interest of the money he shall have sold for, or one-third part of the yearly rent he shall have reserved for and out of the same lot or lots; and that the said George Logan and Deborah, his wife, for and out of the said four yearly ground rents, amounting to twenty-three pounds, in their allotments comprised, shall pay unto the said Mary Norris, and her assigns, during her natural life, yearly, the sum of six pounds two shillings and eight pence; and moreover, from the time they shall have sold for money, or let on ground rent, any of their lots between Chesnut street and Walnut street, then one-third part of the interest of the money they shall have sold for, or one-third part of the yearly rent they shall have reserved for and out of the same lot or lots; and that the said Joseph Parker Norris, for and out of his allotment of the messuage or tenement and lots of ground on the west side of Front street, and on the east side of Second street, hereby released in severalty, shall pay or allow to the said Mary Norris, and her assigns, during her natural life, yearly, the sum of thirty-six pounds thirteen shillings and four pence; and that the said Charles Norris, for and out of the several lots of ground between Chesnut and Walnut streets, by this partition to him in severalty alotted and released, is to pay no annuity or sum or sums of money to the said Mary Norris, his mother, until he shall have sold or let out on ground rents the same, or any part thereof; and from and after the time he shall have sold, or let out, as aforesaid, then one-third part of the money he shall have sold for, or one-third part of the yearly rent he shall have reserved for and out of the same lot and lots; and the said Isaac Norris, for himself, his heirs, executors and administrators, and the said George Logan, for himself, and the said Deborah, his wife, and her heirs, his and her executors and administrators, and the said Joseph Parker Nor-

ris, for himself, his heirs, executors, and administrators; and the said Charles Norris, for himself, his heirs, executors and administrators, severally and respectively, do hereby covenant, promise and agree, to and with the said Mary Norris, her executors and administrators, in manner following, that is to say, he, the said Isaac Norris, and his heirs, shall and will, from time to time, on the first day of May in every year during the natural life of the said Mary Norris, pay, or cause to be paid, unto her, or her assigns, the aforesaid annuity or sum of thirty-six pounds thirteen shillings and four pence; and if during the said term of her natural life he shall dispose by alienation or sale of his vacant lots of ground on the east and west side of his said messuage, or either of them, for money, or on ground rent, then one-third part of the interest of the money he shall have sold for, or one-third part of the yearly ground rent he shall have reserved out of the same lot or lots, they, the said George Logan, and Deborah, his wife, and her heirs, shall and will, from time to time, on the first day of May in every year during the term of the natural life of the said Mary Norris, pay, or cause to be paid, unto her or her assigns, the aforesaid annuity or sum of six pounds two shillings and eight pence; and if during the said term the said George Logan and Deborah, his wife, or her heirs, by alienation or sale, shall dispose of their vacant lots of ground between Chesnut and Walnut streets, hereinbefore assigned to them, or any part thereof, either for money or on ground rent, then one-third part of the interest of the money they sold for, or one-third part of the yearly ground rent they shall have reserved out of the same lot or lots, he, the said Joseph Parker Norris, and his heirs, shall and will, from time to time, on the first day of May in every year during the natural life of the said Mary Norris, pay, or cause to be paid, unto her or her assigns, the aforesaid annuity or sum of thirty-six pounds thirteen shillings and four pence; and he, the said Charles Norris, and his heirs, whenever by alienation or sale he shall dispose of his vacant lots of ground between Chesnutt and Walnut streets hereinbefore assigned to him, or any part thereof, for money or on ground rent, shall and will pay, or cause to be paid, unto the said Mary Norris, or her assigns, yearly, during the term of her natural life, one-third part of the interest of the money he shall have sold for, or one-third part of the yearly ground rent he shall have reserved for and out of the same lot or lots; and it is hereby mutually agreed between the said Mary Norris, of the one part, and the said Isaac Norris, George Logan and Deborah, his wife, Joseph Parker Norris, and Charles Norris, of the other part, that whenever any of the aforesaid certain annuities now growing shall be due and in arrear after the first day of May next, or of the uncertain annuities to arise from the interest of purchase money or ground rent of such lots as hereafter may be sold or conveyed, shall become due a year and a day after the sale or alienation thereof, according to the true meaning and intent of these presents, then, and at any time thereafter, it shall and may be lawful, to and for the said Mary Norris, and her assigns, during her natural life, to enter into and upon the messuages, lands and

tenements, for and out of which such annuity or annuities are or shall be due and payable, and distrain for the same, and all arrearages thereof, in such manner as rents reserved upon lands and tenements may be recovered by law.

In witness whereof the said parties have interchangeably set their hands and seals hereunto. Dated the day and year first above written.

JOS. PARKER NORRIS, [SEAL.]
CHAS. NORRIS, [SEAL.]
GEO. LOGAN, [SEAL.]
DEBORAH LOGAN, [SEAL.]
MARY NORRIS, [SEAL.]
ISAAC NORRIS. [SEAL.]

Sealed and delivered in the presence of—

Note that the words "Brother Isaac Norris has made to them and their," between the 11th and 12th lines, on the first skin of parchment, were first interlined before sealing and delivery.
PETER Z. LLOYD.
MICHAEL BRANIN.

The twenty-sixth day of May, ao. di. 1788, before Lewis Weiss, esq., one of the justices of the court of common pleas for the county of Philadelphia, came Mary Norris, Isaac Norris, George Logan and Deborah, his wife, Joseph P. Norris, and Charles Norris, the parties to the within written indenture of partition, and acknowledged the same to be their act and deed, desiring it may be recorded as such, the said Deborah Logan thereunto voluntarily consenting, and the contents thereof made known unto her.

Witness my hand and seal the day and year aforesaid.

L. WEISS. [SEAL.]

Recorded 16th July, 1788.

PHILADELPHIA CITY, *ss.*

I, George W. Colladay, recorder of deeds, &c., in and for the city and county of Philadelphia, do certify, that the above and foregoing is a true copy of a certain instrument of writing found of record in my office in deed book D, No. 20, page 303, &c.

Witness my hand and seal of office this 29th day of July, A. D. 1850.

[SEAL.] GEORGE W. COLLADAY,
Recorder.

XX. *Deed poll. George Logan and wife to William Kenley.*

To all persons to whom these presents shall come or may con ern George Logan, of Stenton, in the county of Philadelphia, esq., and Deborah, his wife, send greeting:

1788, Sept. 3. Whereas James Coultas, late high sheriff of the said county, upon legal process obtained in the court of common pleas against the executors of Elisha Gatchell, the grantor of the lot of ground within described, did take in execution, and by deed poll, under his hand and seal, bearing date the fourth day of December, one thousand seven hundred and fifty-six, bargain and sell, grant and convey, unto Charles Norris, of the city of Philadelphia, esq., the father of the said Deborah Logan, among other lands and tenements late of the said Elisha Gatchell, the yearly ground rent of four pounds one shilling, lawful money of America, in and by the within written indenture, for and out of the same lot of ground reserved and made payable to the said Elisha Gatchell, and his heirs and assigns, forever.

And whereas the said Charles Norris, being seized and in the actual *perception* of the said yearly ground rent, died intestate, whereupon his widow and children, by indenture of the 24th day of May last past, made partition of the residue of their said father's real estate; by which partition the aforesaid yearly ground rent of four pounds one shilling, among other lands, tenements, and hereditaments, were allotted and released to the said George Logan and Deborah, his wife, and her heirs in severalty, forever; which indenture is recorded at Philadelphia, in deed book No. 20, page 303, &c.

Now, know ye, that the said George Logan and Deborah, his wife, in consideration of the sum of fifty pounds, lawful money of Pennsylvania, unto them, at or immediately before the sealing and delivery hereof, in specie of gold or silver, well and truly paid by William Kenley, of the city of Philadelphia, gent., the receipt whereof is hereby acknowledged, have granted, bargained and sold, assigned and transferred, and by these presents do grant, bargain and sell, assign and transfer, unto the said *the said* William Kenly, and to his heirs and assigns, all that the aforesaid yearly ground rent of four pounds one shilling, lawful money of America, in and by the within written indenture reserved, and made payable for and out of the lot situate on the north side of Walnut street, in the said city, containing in breadth twenty-seven feet, and in length one hundred and twenty-four feet, so as the same is within described, now in the tenure of the said William Kenley, in right of Mary Jenkins, the owner thereof; together with all the rights, members, and appurtenances to the said yearly ground rent belonging, and the reversions and remainders thereof; and all the estate, right, title, interest, property, claim, and demand, whatsoever, of them, the said George Logan and Deborah, his wife, and her heirs, of, in, and to the said yearly ground rent, and the lot of ground for and out of which it is issuing and made payable. To have and to hold the

premises hereby granted and assigned, with the appurtenances, unto the said William Kenley, his heirs, and assigns, to the only proper use and behoof of the said William Kenley, his heirs, and assigns, forever.

In witness whereof the said George Logan and Deborah, his wife, have hereunto set their hands and seals, the third day of September, in the year of our Lord one thousand seven hundred and eighty-eight.

GEORGE LOGAN, [L. S.]
DEBORAH LOGAN. [L. S.]

Sealed and delivered in the presence of—
JOSH. PARKER NORRIS,
HENRY WHARTON.

Received of William Kenley the sum of fifty pounds, being the consideration of this grant in full.

GEORGE LOGAN.

Teste: L. WEISS.

The third day of September, 1788, before me, the subscriber, one of the justices of the court of common pleas for the county of Philadelphia, came George Logan, esq., and Deborah, his wife, who acknowledged the above written deed poll to be their act and deed, desiring it may be recorded as such, the said Deborah thereunto voluntarily consenting, she being of full age, apart from her said husband thereon examined according to law.

Witness my hand and seal, the day and year aforesaid.

L. WEISS. [L. S.]

Recorded November 16, 1838.

PHILADELPHIA, *ss.*

I, George W. Colladay, recorder of deeds, &c., for the city and county of Philadelphia, do certify, that the above and foregoing is a true copy of a certain instrument of writing remaining in my office, in deed book S. H. F., No. 27, page 494, &c.

Witness my hand and seal of office, this first day of August, A. D. 1850.

GEORGE W. COLLADAY,
Recorder.

XXI. *List of patents.*

(Endorsed) No. 1.

Patent dated ye 24th of 4th mo., 1684, to Daniel Jones, for a lot of ground in Philadelphia, contain'g in breadth 62 feet, and in length 255 feet; bounded north'd with back lots, east'd with vacant lots, south'd with Walnut street, and westw'd with a vacant lot; granted by warrant, dated ye 20 of first mo., 1683. Rec'd in patent book A, vol. 1, p. 6.

Patent dated ye 2d of 4th mo., 1685, to Dan'l Jones, for a lot in Philad., contg. in breadth 37 feet, and in length 255 feet; bounded to

ye north'd with back lots, to the e'd with s'd Dan'l Jones's lot, s'd with Walnut street, and to ye w'd with a vacant land; g'd by war't, dated ye 13th of 8th mo., 1684. Rec'd in pat. book A, vol. 1, p. 108.

Patent dated ye 19th of 11th mo., 1685, to Dan'l Jones, for a tract of land, situ'd in the county of Philad'a; beg'g at a corner marked tree, standing by Potquesink creek; from thence, no. west and by no., by ye land of Jno. Ellis, 808 perches, to a corner marked tree; from thence, so. west and by so., by a line of marked trees, 20 per's, to a corner marked tree; from thence, so. E. by so., by Wm. Campian's land, 800 per's, to a corner marked tree stand'g by ye aforem'd Potquesing creek; thence, along the several courses thereof, to the place of beg'g; cont'g 100 a's. Rec'd in patent book A, vol. 1, p. 115.

Patent dated ye 7th of Sep'r, 1692, to Dan'l Jones, of a lot in Phila., cont'g in breadth 62 feet and a half, and in length 250 feet; bounded n'd with back lots, e'd with a lot formerly laid to Thomas Lawesly, s'd with Walnut street, and to ye west'd with John Hodgkin's lot. Rec'd patent book A, vol. 1, p. 328.

Patent dated ye 24th of 8th mo., 1691, to Thomas Livezay, for lot of g'd in Pa., cont'g in breadth 74 feet, and in length 255 feet; b'd n'd with back lotts, eas'd with ye 4th street from Dela., s'd with Walnut street, and west'd with a vacant lot.

XXII. *Notice by Rebecca Budden.*

(Endorsed.) No. 2.

This is to certifie, to whome it may conserne, that Daniel Jones came into Pennsilvania from North Wales, in or about the year sixteen hundred and eighty-three, and some time soon after bought a peas of land in Walnut street, of the propryater, William Penn; and the said Daniel Jones lived upon the premises to about the year one thousand six hundred and ninety-five, and then dide, leaving four children, three sons and one daughter, viz., Hugh Jones, Rebeccah Jones, Daniel Jones, Samuel Jones, and said Rebeccah is the only surviving child of Daniel Jones, sen'r; and as soon as the oldest son, Hugh Jones, came of age, and along with John Howard, made saile of the above land to Eliga Gegell as he saies. But, if said Jones did sell, he could sell no more than his one share, and that he could not sell, it being an undivided write, not knowing which part was his, and ever since the said Gegell has kept the other three aires out of it, with a pretence that he has a write to the whole. Now, this is to forwarne all persons from buying or selling or improving any part or parcel thereof, as I being the only surviving aire of the said Daniel Jones, sen., as witness my hand.

REBECAH BUDDEN.

Philadelphia, June 1st, 1754.

Containing in breadth 62 feet, and in length 255 feet; granted by patent from Wm. Penn, esq., to Dan'l Jones. Date ye 24th 4th month, 1684. Rec'd at Philad'a, pat. book A, vol. 1st, page 6.

XXIII. *Deed. John Gross and wife to Jacob Yocum.*

(Endorsed.) No. 6.

This indenture, made the twenty-eighth day of January, in the year of our Lord one thousand seven hundred and sixty-three, between John Gross, of the township of Douglas, in the county of Philadelphia, and province of Pensylvania, yeoman, and Clara, his wife, of the one part, and Jacob Yocum, of the same place, wheelright, of the other part: Whereas John Penn, esquire, one of the proprietaries of the said province of Pennsylvania, by certain indentures of lease and release, dated the eighteenth and nineteenth days of June, anno domini one thousand seven hundred and thirty-five, for the consideration therein mentioned, did grant, release, and confirm, unto one George M'Call, of the city of Philadelphia, merchant, a certain tract of land, situate in the said county of Philadelphia, containing fourteen thousand and sixty acres: To hold to him, the said George M'Call, his heirs and assigns for ever, as in and by the said recited indentures, relation being thereunto had, more at large appears. By virtue of which said recited indentures, or by virtue of some other good conveyance or conveyances in the law duly had and executed, he, the said George M'Call, became in his lifetime lawfully seized on his demesne as of fee of and in the said fourteen thousand and sixty acres of land, and being so thereof seized, made his last will and testament in writing, dated the thirty-first day of September, anno 1739, wherein he, the said testator, (inter alia,) willed that certain six thousand five hundred and sixty acres (in the said testament called the manor land) should be surveyed and set apart from the said fourteen thousand and sixty acres for his, the said testator's, sons, Jasper, Samuel, George, and Archibald, and that the same should be equally subdivided to and for each one his part, which will make one thousand six hundred and forty acres a piece, which one thousand six hundred and forty acres to be surveyed for his, the said testator's, son George, he, the said testator, dost give and devise the same to him, the said George M'Call, the sons and the heirs of his body issuing, and in default or for want of such issue, then to his ye s'd testator's sons, Jasper, Samuel, and Archibald, and the heirs of their bodies, lawfully to be begotten, as in and by the said recited testament, duly approved and remaining in the register general's office at Philadelphia, relation being thereunto had, more at large appears; and, shortly after the making of the said testament, he, the said George M'Call, the father, departed this life, so seized of the premises, and the aforesaid six thousand five hundred and sixty acres of the manor land aforesaid was set apart for his, the said testator's, sons, Jasper, Samuel, George, and Archibald, and subdivided amongst them; and, after such subdivision was made, a fine was levied on the part of the said George, and on the parts of the said Samuel and Archibald, in or about the year 1749, and a recovery passed for docking and barring the estate tail deviced by the said testament. By force and virtue whereof he, the said George M'Call, the son, became in his lifetime lawfully seized in his demesne as of fee of and in the said one

thousand six hundred and forty acres of land, and, being so thereof seized, made his last will and testament in writing, dated the nineteenth day of July, anno domini 1754, and thereby ordered and directed the payment of his just debts and funeral expenses; and the better to enable them to discharge the same, he did thereby give unto them, and the survivor and survivors of them, full and absolute power to sell and dispose of all and every part of his estate, both real and personal, with full power to bargain and grant sure conveyances for the purchasers; and of his said will he, the said George M'Call, the son, appointed his brother, Samuel M'Call, senior, his brother, the said Samuel M'Call, junior, his wife, Lydia M'Call, and his friend, William Plumsted, to be executors; and by a codicil to his will, dated the second day of July, anno domini 1756, he nominated his loving friend, Redmond Conyngham, to be one of the executors, as in and by the said last recited testament and codicil, duly approved and remaining in the register general's office at Philadelphia, relation being thereunto had, more at large appears; and, shortly after the making of the said last recited testament and codicil, he, the said George M'Call, the son, departed this life, so seized of the said one thousand six hundred and forty acres of land. And whereas they, the said Samuel M'Call, Lydia M'Call, William Plumsted, and Redmond Conyngham, by their indenture dated the thirty-*first* day of June, anno domini 1763, for the consideration therein mentioned, did grant, release, and confirm, unto one Christian Schrack, of the township of Providence, in the said county of Philadelphia, tanner, a certain tract of land containing six hundred and fifty-nine acres and seventy-seven perches, (part of the said one thousand six hundred and forty acres.) To hold to him, the said Christian Schrack, his heirs and assigns forever, as in and by the said recited indenture, relation being thereunto had, more at large appears. And whereas the said Christian Schrack and Margaret, his wife, by their indenture, date the seventh day of October last past, for the consideration therein mentioned, did grant, release, and confirm, unto the said John Gross a certain tract of land containing four hundred and forty-seven acres and an half, (part of the said six hundred and fifty-nine acres and seventy-seven perches,) to hold to him, the said John Gross, his heirs and assigns forever, as in and by the said last recited indenture, relation being thereunto had, more at large appears. Now this indenture witnesseth, that the said John Gross and Clara, his wife, for and in consideration of the sum of one hundred and twenty-eight pounds, lawful money of Pennsylvania, unto them well and truly in hand paid by the said Jacob Yocam, at and before the sealing and delivery hereof, (the receipt whereof they, the said John Gross and Clara, his wife, do hereby acknowledge, and thereof do acquit and forever discharge the said Jacob Yocam, his heirs and assigns,) by these presents have granted, bargained, sold, aliened, released, confirmed, and by these presents do grant, bargain, sell, alien, release, and confirm, unto the said Jacob Yocam two certain lots, pieces, or parcels of ground, (part of the said four hundred and forty-seven acres and an half, (bounded and described

as follows, viz., the one of them beginning at a post, which is a corner of Valentine Keely's land, standing in the great road leading from Readingtown to Philadelphia; thence by the said Valentine Keely's land, and by land of the said John Gross, respectively, north thirty-eight degrees east, two hundred perches, to a post; thence by land of the said John Gross, south fifty-two degrees east, five perches, to a post; thence by the said John Gross, south thirty-five degrees west, one hundred and sixty-seven perches, to a post, and south thirteen degrees east, twenty perches, to a draw-well near the aforesaid road; thence along the aforesaid road, south eighty-one degrees west, eight perches, to a post, and north eighty-one degrees west, twenty-eight perches and an half, to the place of beginning, containing fourteen acres and one hundred and twenty-nine perches; and the other of them beginning at a post a corner of the above described lot; thence north fifty-two degrees, west, eleven perches, to a corner of the said John Gross's land; thence north thirty-eight degrees east, one hundred and seventy-two perches, to a post; thence by the said John Gross's land, south thirty-five degrees west, one hundred and seventy-two perches and an half, to the place of beginning, containing five acres and one hundred and fifty-one perches. Together, also, with all and singular the improvements, ways, woods, waters, water-courses, lights, easements, rights, liberties, privileges, advantages, hereditaments, and appurtenances whatsoever thereunto belonging or in anywise appertaining, and the reversions and remainders, rents, issues, and profits thereof, and also all the estates, rights, title, interest, use, possession, property, claim, and demand whatsoever of them, the said John Gross and Clara, his wife, of, in, or to the said described two several lots or pieces of land, excepting and always reserving out of the hereby granted premises all mines and ore which shall be discovered in the same, together with the necessary privilege of coming at, digging for, and refining the same on the spot, and carrying it away. To have and to hold the said two several described lots, pieces, or parcels of ground, hereditaments, and premises hereby granted or mentioned to be granted, with their and every of their appurtenances, unto the said Jacob Yocam, his heirs and assigns, to the only proper use and behoof of the said Jacob Yocam, his heirs and assigns forever. And the said John Gross, for himself, for the said Clara, his wife, and for his heirs and assigns, doth covenant, promise, and grant, to and with the said Jacob Yocam, his heirs and assigns, that he, the said John Gross, his heirs and assigns, the said described two several lots, pieces, or parcels of ground, hereditaments, and premises hereby granted or mentioned to be granted, with their and every of their appurtenances, unto the said Jacob Yocum, his heirs and assigns, against him, the said John Gross, his heirs and assigns, and against all and every other person and persons whatsoever lawfully claiming or to claim by, from, or under him, them, or any of them, shall and will warrant and forever defend by these presents.

In witness whereof the said parties to these presents have inter-

changeably set their hands and seals thereunto. Dated the day and year first above written.

JOHN GROSS, [L. S.]
her
CLARA × GROSS. [L. S.]
mark.

Sealed and delivered in presence of us:

After the words (excepting and always reserving out of the hereby granted premises all mines and ore which shall be discovered in the same, together with the necessary privilege of coming at, digging for, and refining the same on the spot, and carrying away) were first interlined.

DERICK RUNNYBARKER,
ENOCH DAVIS.

Received the day of the date of the above written indenture of the above mentioned Jacob Yocum, the sum of one hundred and twenty-eight pounds, lawful money of Pennsylvania, it being in full of the consideration money above mentioned. I say received by me.

JOHANNES GROSS.

NICHO'S BUMM,
SOLOMON WRIGHT.

The 28th day of January, in the year of our Lord one thousand seven hundred and sixty-three, before me, Enoch Davis, esquire, one of the justices of the peace for the county of Philadelphia, came the above mentioned John Gross and Clera, his wife, and brought the above written indenture, which they acknowledged to be their act and deed, and desire that the same might be recorded as their act and deed, according to law; the said Clera thereunto voluntarily consenting, she being of free age, secretly and apart examined, and the contents of the said writing first made known unto her.

Witness my hand and seal the day and year above said.

ENOCH DAVIS. [L. S.]

Exceptions to master's report overruled, and report confirmed.

Afterwards, to wit, on the 29th day of October, A. D. 1850, the exceptions to the report of the master, filed September 21, 1850, having been argued by counsel, and it being agreed by said counsel that the date of the birth of the testator, Matthias Aspden, (incidentally referred to in said report as being involved in some uncertainty,) was, in fact, the twenty-first day of November, A. D. 1748; it is ordered by the court here, that the said exceptions be overruled, and the report confirmed.

Petitions of Charles Shaler and others.

Afterwards, to wit, on the eleventh day of November, A. D. 1850,

the petitions of Charles Shaler, administrator of John Hartley; of Jacob S. Brick, administrator of Bathsheba Brick; of Joshua P. Browning, administrator of Elizabeth Fortiner, and Thomas B. Hartley; of Zebiah Brick, administratrix of John Brick; of Abraham Kirby, administrator of Elizabeth Brick; of Joseph Ellis and Evan C. Smith, executors of Isaac Zane; and of Frederick G. Fraser, administrator of Elizabeth Wilson and Miriam Jones, praying to be made parties to this suit, are presented by their respective solicitors; which petitions, being read and filed, and granted by the court, are in the words and of the tenor following, to wit:

To the honorable the judges of the circuit court of the United States, in and for the eastern district of Pennsylvania.

The petition of Charles Shaler, of Alleghany county, in the State of Pennsylvania, and a citizen of the said State, administrator de bonis non of John Hartley, deceased, late of the State of Ohio, respectfully showeth, that your petitioner is, as he firmly believes, entitled to have distribution made to him as the party contemplated in and by the will of Matthias Aspden, deceased, late of the city of Philadelphia; which will is set forth in certain proceedings instituted in this honorable court, consisting of a bill filed by Samuel Packer against Henry Nixon, executor of Matthias Aspden, deceased, and the answer of the said Henry Nixon, the same being filed as No. 1, to April sessions, 1828: that the said Henry Nixon has since departed this life, and letters of administration de bonis non cum testamento annexo upon the estate of the said Matthias Aspden, deceased, were granted to Joseph Trotter: that Samuel Packer, the original complainant in this suit, has exhibited in this court his bill to revive the same against the said Joseph Trotter, administrator as aforesaid; and the said Joseph Trotter, administrator of the said Matthias Aspden, did, on the fourteenth day of March, one thousand eight hundred and forty-eight, file his answer to the said bill of revivor.

That the said John Hartley was one of the children of Roger Hartley, who was a brother of the half blood of the said Matthias Aspden: that the said John Hartley departed this life since the death of the said Matthias Aspden, and that letters of administration upon his estate were duly granted, on the ninth day of September, A. D. 1848, by the court of common pleas of Jefferson county, in the said State of Ohio, to Gideon Gosnell, who, as administrator of the said John Hartley, did, on the sixth day of August, 1849, exhibit his petition to this honorable court, praying to be admitted as a party on the record.

That, on the fourth day of February, A. D. 1850, letters of administration de bonis non upon the estate of the said John Hartley were duly granted by the register of wills in and for the county of Alleghany, in the State of Pennsylvania, to your petitioner, Charles Shaler, which said letters still remain in full force and unrevoked.

Your petitioner avers that the said Matthias Aspden, the testator was born in the State of Pennsylvania, and that he was domiciled in the said State of Pennsylvania at the time of making his said will, and also

at the time of his death, and also during the whole period which intervened between the making of the said will and his death.

That the said John Hartley was one of the children of Roger Hartley, a brother of the half blood of the said Matthias Aspden, the testator.

That the said John Hartley departed this life in or about the year 1839, intestate.

Your petitioner prays that he may be admitted as party to the suit, for the purpose of claiming the fund in the hands of the said executor, and that your honors will be pleased to direct such inquiries to be made as to his claim as justice may require; and, finally, that the said fund may be decreed to those to whom it may in justice and equity appertain.

And your petitioner will ever pray, &c.

JNO. L. NEWBOLD,
Sol. for petitioner.

Petition of Jacob S. Brick, administrator, &c.

To the honorable the judges of the circuit court of the United States, in and for the eastern district of Pennsylvania.

The petition of Jacob S. Brick, of the county of Camden, and State of New Jersey, a citizen of said State, administrator cum testamento annexo of Bathsheba Brick, deceased, respectfully showeth:

That your petitioner is, as he firmly believes, entitled to have distribution made to him, as the party contemplated in and by the will of Matthias Aspden, deceased, late of the city of Philadelphia; which will is set forth in certain proceedings instituted in this honorable court, consisting of a bill filed by Samuel Packer against Henry Nixon, executor of Matthias Aspden, deceased, and the answer of the said Henry Nixon; the same being filed as No. 1, to April sessions, 1828.

That the said Henry Nixon has since departed this life, and letters of administration de bonis non cum testamento annexo, upon the estate of the said Matthias Aspden, deceased, are granted to Joseph Trotter. That Samuel Packer, the original complainant in this suit, has exhibited in this court his bill to revive the same against the said Joseph Trotter, administrator as aforesaid; and the said Joseph Trotter, administrator of the said Matthias Aspden, did, on the fourteenth day of March, one thousand eight hundred and forty-eight, file his answer to the said bill of revivor.

That your petitioner heretofore, to wit, on the sixth day of August, A. D. 1849, presented his petition to this honorable court, praying to be admitted as a party on the record, as administrator of the said Bathsheba Brick, under and by virtue of letters of administration granted to your petitioner by the surrogate of the county of Gloucester, in the State of New Jersey; but your petitioner, being advised that said letters of administration are insufficient to entitle him to appear in this honorable court as the legal representative of the said Bathsheba Brick, has since, to wit, on the seventh day of February, A. D. 1850, had letters

of administration cum testamento annexo, upon the estate of the said Bathsheba Brick, granted to him by the register of wills of the city and county of Philadelphia; which letters remain in full force and unrevoked.

Your petitioner avers, that the said Matthias Aspden, the testator, was born in the State of Pennsylvania, and that he was domiciled in the said State of Pennsylvania at the time of making his said will, and also at the time of his death, and also during the whole period which intervened between the making of the said will and his death.

That the said Bathsheba Brick was one of the children of Benjamin Hartley, who was a brother of the half blood of the said Matthias Aspden, and that she departed this life in or about the year A. D. 1831.

Your petitioner prays that he may be admitted as party to the said suit, for the purpose of claiming the fund in the hands of the said executor, and that your honors will be pleased to direct such inquiries to be made as to his claim as justice may require; and, finally, that the said fund may be decreed to those to whom it may in justice and equity appertain.

And your petitioner will ever pray, &c.

JNO. L. NEWBOLD,
Sol. for petitioner.

Petition of Joshua P. Browning, administrator, &c.

To the honorable the judges of the circuit court of the United States, in and for the eastern district of Pennsylvania.

The petition of Joshua P. Browning, of the county of Camden, and State of New Jersey, and a citizen of said State, administrator of Elizabeth Fortiner, deceased, and administrator cum testamento annexo of Thomas B. Hartley, deceased, respectfully showeth:

That your petitioner is, as he firmly believes, entitled to have distribution made to him as the party contemplated in and by the will of Matthias Aspden, deceased, late of the city of Philadelphia, which will is set forth in certain proceedings instituted in this honorable court, consisting of a bill filed by Samuel Packer against Henry Nixon, executor of Matthias Aspden, deceased, and the answer of the said Henry Nixon, the same being filed as No. 1, to April sessions, 1828. That the said Henry Nixon has since departed this life, and letters of administration de bonis non cum testamento annexo, upon the estate of the said Matthias Aspden, deceased, are granted to Joseph Trotter. That Samuel Packer, the original complainant in this suit, has exhibited in this court his bill to revive the same against the said Joseph Trotter, administrator as aforesaid; and the said Joseph Trotter, administrator of the said Matthias Aspden, did, on the fourteenth day of March, one thousand eight hundred [and] forty-eight, file his answer to the said bill of revivor.

That your petitioner heretofore, to wit, on the sixth day of August, 1849, and Thomas Evans, executor of the last will and testament of the said Thomas B. Hartley, presented to this honorable court their

petitions, and were made parties to the record in this case. That your present petitioner, Joshua P. Browning, was admitted as a party, as the administrator of the said Elizabeth Fortiner, under and by virtue of letters of administration granted by the surrogate of the county of Camden, as stated in his said petition. But being advised that said letters of administration are insufficient to entitle your petitioner to appear in this honorable court as the legal representative of the said Elizabeth Fortiner, your petitioner has since, to wit, on the seventeenth day of January, 1850, had letters of administration upon the estate of the said Elizabeth Fortiner granted to him by the register of wills of the city and county of Philadelphia, which letters remain in full force and unrevoked. That the said Thomas Evans, executor of the said Thomas B. Hartley, departed this life in the year 1849, and that on the seventeenth day of January, 1850, letters of administration cum testamento annexo upon the estate of the said Thomas B. Hartley were duly granted to your petitioner by the register of wills in and for the city and county of Philadelphia, which letters remain in full force and unrevoked.

Your petitioner avers that the said Matthias Aspden, the testator, was born in the State of Pennsylvania, and that he was domiciled in the said State of Pennsylvania at the time of making his said will, and also at the time of his death, and also during the whole period which intervened between the making of the said will and his death.

That the said Thomas B. Hartley and Elizabeth Fortiner were children of James Hartley, who was a son of Benjamin Hartley, a brother of the half blood of Matthias Aspden, the testator; and that the said Thomas B. Hartley and Elizabeth Fortiner were both living at the time of the death of the said Matthias Aspden. That the said Thomas B. Hartley left a will, as stated by petitioner in his former petition, to which he craves reference, and that the said Elizabeth Fortiner died intestate.

Your petitioner prays that he may be admitted as party to the said suit, for the purpose of claiming the fund in the hands of the said executor, and that your honors will be pleased to direct such inquiries to be made as to his claim as justice may require; and, finally, that the said fund may be decreed to those to whom it may in justice and equity appertain.

And your petitioner will ever pray, &c.

JNO. L. NEWBOLD,
Sol. for pet.

Petition of Zebiah Brick, administratrix, &c.

To the honorable the judges of the circuit court of the United States, in and for the eastern district of Pennsylvania.

The petition of Zebiah Brick, of the county of Camden, and State of New Jersey, and a citizen of said State, administratrix of John Brick, deceased, respectfully showeth:

That your petitioner is, as she firmly believes, entitled to have distribution made to her, as the party contemplated in and by the will of Matthias Aspden, deceased, late of the city of Philadelphia, which will is set forth in certain proceedings instituted in this honorable court, consisting of a bill filed by Samuel Packer against Henry Nixon, executor of Matthias Aspden, deceased, and the answer of the said Henry Nixon, the same being filed as No. 1, to April sessions, 1828; that the said Henry Nixon has since departed this life, and letters of administration de bonis non cum testamento annexo upon the estate of the said Matthias Aspden, deceased, are granted to Joseph Trotter; that Samuel Packer, the original complainant in this suit, has exhibited in this court his bill to revive the same against the said Joseph Trotter, administrator as aforesaid; and the said Joseph Trotter, administrator of the said Matthias Aspden, did, on the fourteenth day of March, one thousand eight hundred and forty-eight, file his answer to the said bill of revivor.

That your petitioner heretofore, to wit, on the sixth day of August, 1849, presented to this honorable court her petition, praying to be admitted as a party on the record, as administratrix of the said John Brick, under and by virtue of letters of administration granted to your petitioner by the surrogate of the county of Camden, in the State of New Jersey; but your petitioner, being advised that said letters of administration are insufficient to entitle your petitioner to appear in this honorable court as the legal representative of the said John Brick, has since, to wit, on the tenth day of January, A. D. 1850, had letters of administration upon the estate of the said John Brick granted to her by the register of wills of the city and county of Philadelphia, which letters of administration remain in full force and unrevoked.

Your petitioner avers that the said Matthias Aspden, the testator, was born in the State of Pennsylvania, and that he was domiciled in the said State of Pennsylvania at the time of making his said will, and also at the time of his death, and also during the whole period which intervened between the making of the said will and his death.

That the said John Brick was the only child of Mercy Brick, who was one of the children of Benjamin Hartley, a brother of the half blood of Matthias Aspden, the testator; that the said Mercy Brick died many years before the said Matthias Aspden; and the said John Brick died since, to wit, about the year 1843.

Your petitioner prays that she may be admitted as party to the said suit for the purpose of claiming the fund in the hands of the said executor, and that your honors will be pleased to direct such inquiries to be made as to her claim as justice may require; and, finally, that the said fund may be decreed to those to whom it may in justice and equity appertain.

And your petitioner will ever pray, &c.

JNO. L. NEWBOLD,
Sol. for petitioner.

1157.

Petition of Abraham Kirby, administrator, &c.

To the honorable the judges of the circuit court of the United States, in and for the eastern district of Pennsylvania.

The petition of Abraham Kirby, of the county of Camden, and State of New Jersey, and a citizen of said State, administrator cum testamento annexo of Elizabeth Brick, deceased, respectfully showeth:

That your petitioner is, as he firmly believes, entitled to have distribution made to him as the party contemplated in and by the will of Matthias Aspden, deceased, late of the city of Philadelphia, which will is set forth in certain proceedings instituted in this honorable court, consisting of a bill filed by Samuel Packer against Henry Nixon, executor of Matthias Aspden, deceased, and the answer of the said Henry Nixon, the same being filed as No. 1, to April sessions, 1828; that the said Henry Nixon has since departed this life, and letters of administration de bonis non cum testamento annexo upon the estate of the said Matthias Aspden, deceased, are granted to Joseph Trotter; that Samuel Packer, the original complainant in this suit, has exhibited in this court his bill to revive the same against the said Joseph Trotter, administrator as aforesaid; and the said Joseph Trotter, administrator of the said Matthias Aspden, did, on the fourteenth day of March, one thousand eight hundred and forty-eight, file his answer to the said bill of revivor.

That Mercy H. Brick and Rebecca H. Brick, executrixes of Elizabeth Brick, deceased, on the sixth day of August, 1849, presented their petitions to this honorable court, and were admitted as parties on the record in the above case. Your petitioner is advised, that the letters testamentary granted to the said Mercy H. Brick and Rebecca H. Brick, by the surrogate of the county of Camden, as stated in their said petition, are insufficient to entitle them to represent the estate of the said Elizabeth Brick in this honorable court. That your petitioner has since, viz., on the seventh day of January, A. D. 1850, obtained a grant to himself of letters of administration cum testamento annexo upon the estate of the said Elizabeth Brick from the register of wills of the city and county of Philadelphia, which letters remain in full force and unrevoked.

Your petitioner avers that the said Matthias Aspden, the testator, was born in the State of Pennsylvania, and that he was domiciled in the said State of Pennsylvania at the time of making his said will, and also at the time of his death, and also during the whole period which intervened between the making of the said will and his death.

That the said Elizabeth Brick was one of the children of Benjamin Hartley, who was a brother of the half blood *blood* of Matthias Aspden, the testator; that she died in or about the year 1844, having first made her last will and testament, as is more fully set forth in the petition of the said Mercy H. Brick and Rebecca H. Brick, to which your petitioner craves reference.

Your petitioner prays that he may be admitted as party to the said suit for the purpose of claiming the fund in the hands of the said executor, and that your honors will be pleased to direct such inquiries to be made as to his claim as justice may require; and, finally, that the said fund may be decreed to those to whom it may in justice and equity appertain.

And your petitioner will ever pray, &c.

JOHN L. NEWBOLD,
Solicitor for petitioner.

Petition of Joseph Ellis and Evan C. Smith, executors, &c.

To the honorable the judges of the circuit court of the United States, in and for the eastern district of Pennsylvania.

The petition of Joseph Ellis and Evan C. Smith, of the county of Camden, and State of New Jersey, and citizens of said State, executors of Isaac Zane, deceased, respectfully showeth, that your petitioners are, as they firmly believe, entitled to have distribution made to them, as the parties contemplated in and by the will of Matthias Aspden, deceased, late of the city of Philadelphia, which will is set forth in certain proceedings instituted in this honorable court, consisting of a bill filed by Samuel Packer against Henry Nixon, executor of Matthias Aspden, deceased, and the answer of the said Henry Nixon, the same being filed as No. 1, to April sessions, 1828. That the said Henry Nixon has since departed this life, and letters of administration de bonis non cum testamento annexo upon the estate of the said Matthias Aspden, deceased, are granted to Joseph Trotter; that Samuel Packer, the original complainant in this suit, has exhibited in this court his bill to revive the same against the said Joseph Trotter, administrator as aforesaid; and the said Joseph Trotter, administrator of the said Matthias Aspden, did, on the fourteenth day of March, one thousand eight hundred and forty-eight, file his answer to the said bill of revivor.

That your petitioners heretofore, to wit, on the fifth day of June, 1848, presented to this honorable court their petition, praying to be admitted parties in the above case under and by virtue of letters testamentary, granted to them by the surrogate of the county of Camden, in the State of New Jersey, as is more fully stated in their said petition. Your petitioners being advised that said letters testamentary do not entitle your petitioners to appear in this honorable court as the legal representatives of the said Isaac Zane, did, on the eighth day of January, A. D. 1850, obtain a grant to themselves of letters testamentary upon the estate of the said Isaac Zane, from the register of wills of the city and county of Philadelphia; which said letters remain in full force and unrevoked.

Your petitioners aver that the said Matthias Aspden, the testator, was born in the State of Pennsylvania, and that he was domiciled in the said State of Pennsylvania at the time of making his said will,

and also at the time of his death, and also during the whole period which intervened between the making of the said will and his death.

That the said Isaac Zane was one of the children of Bathsheba Zane, who was a sister of the half blood of Matthias Aspden, the testator; and that the said Isaac Zane died in the year A. D. 1843, having first made his last will and testament, in writing, appointing your petitioners his executors, as is more fully stated in their former petition, to which they crave reference.

Your petitioners pray that they may be admitted as parties to the said suit for the purpose of claiming the fund in the hands of the said executor, and that your honors will be pleased to direct such inquiries to be made as to their claim as justice may require; and, finally, that the said fund may be decreed to those to whom it may in justice and equity appertain.

And your petitioners will ever pray, &c.,

JNO. L. NEWBOLD,
Sol. for pets.

Petition of Frederick G. Fraser, administrator, &c.

To the honorable the judges of the circuit court of the United States, in and for the eastern district of Pennsylvania.

The petition of Frederick G. Fraser, of the city of Philadelphia and State of Pennsylvania, and a citizen of said State, administrator de bonis non of Eliza Wilson, late of the State of Ohio, deceased, and also administrator de bonis non of Miriam Jones, late of the State of Ohio, deceased, respectfully showeth: That your petitioner is, as he firmly believes, entitled to have distribution made to him as the party contemplated in and by the will of Matthias Aspden, deceased, late of the city of Philadelphia, which will is set forth in certain proceedings instituted in this honorable court, consisting of a bill filed by Samuel Packer against Henry Nixon, executor of Matthias Aspden, deceased, and the answer of the said Henry Nixon, the same being filed as No. 1, to April sessions, 1828. That the said Henry Nixon has since departed this life, and letters of administration de bonis non cum testamento annexo upon the estate of the said Matthias Aspden, deceased, are granted to Joseph Trotter. That Samuel Packer, the original complainant in this suit, has exhibited in this court his bill to revive the same against the said Joseph Trotter, administrator as aforesaid; and the said Joseph Trotter, administrator of the said Matthias Aspden, did, on the fourteenth day of March, one thousand eight hundred and forty-eight, file his answer to the said bill of revivor.

That on the first day of February, A. D. 1850, James P. Fraser, senior, administrator of the said Eliza Wilson and Miriam Jones, presented his petition to this honorable court, and was admitted on the record as a party in the above case. That the said James P. Frazer, senior, departed this life on the 28th day of September, A. D. 1850.

That on the eleventh day of November, A. D. 1850, letters of administration de bonis non upon the estates of the said Eliza Wilson and Miriam Jones were duly granted to your petitioner, Frederick G. Frazer, by the register of wills in and for the city and county of Philadelphia; which said letters of administration still remain in full force and unrevoked.

Your petitioner avers that the said Matthias Aspden, the testator, was born in the State of Pennsylvania, and that he was domiciled in the said State of Pennsylvania, at the time of making his said will, and also at the time of his death, and also during the whole period which intervened between the making of the said will and his death.

That the said Eliza Wilson was one of the daughters of Matthias Kay, and the said Miriam Jones was another of the daughters of the said Matthias Kay; and that the said Matthias Kay was one of the children of Rebecca Kay, formerly Rebecca Hartley, and a sister of the half blood of Matthias Aspden, the testator. That the said Eliza Wilson and Miriam Jones both died on or about the seventh day of August, A. D. 1849, intestate.

Your petitioner prays that he may be admitted as a party to the said suit for the purpose of claiming the fund in the hands of the said executor; and that your honors will be pleased to direct such inquiries to be made as to his claim as justice may require; and, finally, that the said fund may be decreed to those to whom it may in justice and equity appertain.

And your petitioners will ever pray, &c.,

JNO. L. NEWBOLD,
Sol. for pet.

Opinion of the court.

Afterwards, to wit, on the aforesaid eleventh day of November, A. D. 1850, the opinion of the court is delivered by the honorable Justice Grier, upon the question argued by counsel on the first of November, instant, arising between the heirs a parte paterna and those a parte materna, and whether the estate of Matthias Aspden should be distributed into three shares according to the first hypothesis in the master's report, or into thirty-five shares, according to the second; which opinion is in the words and of the tenor following, to wit:

In the circuit court of the United States, in and for the eastern district of Pennsylvania, in the third circuit. In equity.

PACKER vs. NIXON. } No. 1. April session, 1828.

Opinion of the court. Grier, Justice.

We are relieved from an oppressive feeling of responsibility, which would otherwise have attended the decision of this case, by the know-

ledge that it can and will be reviewed by a higher tribunal, where any error into which we may have fallen will be corrected; and we congratulate the parties and the counsel that, after twenty-two years of litigation, there is now a prospect that, in three or four years at farthest, those who are entitled to this large estate will be permitted to enjoy it, and those who are not will cease to indulge vain hopes respecting it.

In order to understand fully the question now to be considered, it will be necessary to recapitulate some portion of the previous history of the case.

That portion of the will of Matthias Aspden, which has caused this long and anxious contest, is in these words: "I give and bequeath my estate, real and personal, to my heir-at-law." And again, in an explanatory postscript: "It is my will that my estate, real and personal, should go to the party who would be my lawful heir, in case there might arise no doubt on that head," (to wit, as to the legitimacy of his birth.")

The very numerous persons (amounting to some hundreds) who have at different times made themselves parties to this contest, claiming to come within the description of the will, have arranged themselves into three classes. Each of these has had to contend against both the others, and consequently reserved any question that might arise between themselves till they could clear the field of their common enemies.

The bill in this case first filed against the executor was by Samuel Packer, claiming as heir at common law of the whole blood a parte materna; but, after the interposition of those claiming as heir at common law of the whole blood of the father, (or the Aspdens of England,) that claim was abandoned; and a very numerous class claiming as next of kin on the mother's side combined their forces against the other two classes. The second class of claimants consisted of two families of Aspdens, each claiming that their father was heir-at-law, according to the course of the common law, to the testator, reserving the question as between themselves as to which of them had the better right.

The third class consisted of the next of kin of the half blood, who were also subdivided into two parties—those of the half blood a parte paterna, (the Harrisons,) and those of the half blood a parte materna, (the Hartleys.) This class claimed both as next of kin, and as meeting the description of "heir-at-law" or "lawful heir," according to the law of Pennsylvania.

The first class (claiming under the Packers, or maternal whole blood) were adjudged to have no pretence of claim whatever, on any possible construction of the will of Matthias Aspden; and the main contest was between the second and third class, the heir at common law, and the next of kin, claiming also to be heir by the law of Pennsylvania.

The issue between these parties was heard about a year ago, when it was decided—

First. That there was no ambiguity, either latent or patent, in the

will of Matthias Aspden, and therefore no parol evidence of intention could be received.

Second. That there is nothing in the will which controls the legal meaning of the phrase "heir-at-law" or "lawful heir," or shows any intention of the testator to use these words in other than their legal import, viz., "as the person or persons on whom the law would cast the inheritance of his real estate at his death in case of intestacy."

Third. That the testator's domicil being in Pennsylvania, where his will was made and his executors appointed, we must look to the law of Pennsylvania for a definition of the person or persons entitled to succeed by inheritance as heirs-at-law of Matthias Aspden.

Fourth. That the testator at his death left neither father nor mother, brother or sister of the whole or half blood, but did leave nephews and nieces, issue of brothers and sisters of the half blood; and that the law of Pennsylvania, as it stood at the death of the testator, ordained that such issue of the half blood should inherit, or be the "lawful heir," in preference to more remote kindred of the whole blood.

When this decision was made, we anticipated that there might possibly arise a dispute between the two stocks of half blood, and that the Harrisons, or half blood a parte paterna, might claim that the Hartley stock, or half blood a parte materna, should be excluded. Although it is true that some of the arguments used by the court in deciding the question between these parties and the Aspdens might appear to give color to the assertion of such a claim, it was certainly not our intention to intimate any opinion on the subject, nor had we formed any; and even since the able argument which we have heard, we have found great difficulty in arriving at a conclusion for which we could give satisfactory reasons.

And I may say of the present, as well as of the previous decision in this case, that though made after careful investigation, and an anxious desire to arrive at the truth, I feel that they are not such as I may not possibly be persuaded to concur in reversing upon more mature consideration, and assisted by my brethren, (if my life should be spared till the final decision of the case.)

The question under consideration cannot be clearly apprehended without the statement of some facts as reported by the master, and a syllabus or summary of the arguments used to support the views of those who have raised it.

The devise in this case being "my estate, real and personal, to my heir-at-law," showed conclusively that the testator was either seized, or expected to die seized, or claimed to own, or in other words, believed, supposed, or fancied himself the owner of real property. For this reason we requested the master to report, among other things, "what lands were held or claimed by the testator at the time he made his will or afterwards, and how held, whether by purchase (in the popular sense of the term) or descent or devise from either father or mother."

In pursuance of this order the master reported "that the testator did not, at the date of his last will, or afterwards, hold any real estate, but

that at the date of his will and afterwards, until near the period of his death, he claimed to be the rightful owner of the house or store, lot of ground and wharf, on the east side of Water street, in the city of Philadelphia, and of the plantation or tract of land in the county of Chester, and State of Pennsylvania, that had been devised to him in fee by his father, by his will, dated 10th of August, 1764."

Now the half blood, a parte paterna, contend that they alone fulfil the description of "heir-at-law," or "lawful heir" of the testator, to the exclusion of the half blood a parte materna; that the term heir has reference to an inheritance, and the question, as to what person is designated by that term, depends on the realty which is to be inherited; that this designation of the testator's intention to give his personalty to his heir, instead of his next of kin, cannot depend on the validity of his title to the estate which the testator expects him to inherit. Thus, in England, if a man dies seized of lands which came to him by descent from his father, and without children, his cousin of the whole blood of his father will be his heir; but if his estate came to him from his mother, his cousin of the whole blood a parte materna would be his heir. That, therefore, the term "heir-at-law," as designatio personæ in a will, has reference, ex necessitate, to something dehors, or without the will, which must be known in order to ascertain the intention of the testator. That the law of Pennsylvania, while it substitutes nearer kindred of the half blood to more distant kindred of the whole blood, adopts the same principle, viz., that the heir must be of the blood of the first purchaser. That Matthias Aspden, having never owned any property, except that which came to him from his father, and having never voluntarily parted with it, but having tenaciously claimed it all his life, (believing his attainder and the forfeiture of his property was not only unjust but illegal,) must be supposed to designate and intend by the description "heir-at-law or lawful heir" only such person or persons as would stand in that relation to the property which he expected to descend to his heir. That if it is competent to receive parol testimony as to what estate he died seized of, and how the title to it devolved upon him, it is equally competent to ascertain in this way what property he claimed, or supposed would descend to his heir, especially as it appears on the face of the will that he supposed himself seized of some real estate, and his intention must be the same whether he was right or wrong in that claim, belief, or supposition. And consequently, that the testator, having never owned or claimed to own any property but that which was devised to him by his father, his nephews and nieces of the maternal half blood would have inherited nothing from him, and the description of heir-at-law or lawful heir could not possibly attach to them.

Let us consider this question, first, on the undisputed fact that the testator was *not* seized of any real estate at the time he made his will or afterwards; and, secondly, whether the unfounded belief that he was the rightful owner of certain property which was devised to him by his father, can be received to vary the result.

First. The eleventh section of the act of 19th of April, 1794, entitled "An act directing the descent of intestates' real estate," &c., enacts, "That where any person shall die, seized as aforesaid, leaving no children or lawful issue, father or mother, brothers or sisters, or their lawful issue, of the whole blood, then brothers and sisters of the half-blood, and their lawful issue, shall inherit the same as aforesaid, in preference to the more remote kindred of the whole blood, unless where such inheritance came to the said person so seized by descent, devise, or gift of some one of his ancestors; in which case all those who are not of the blood of such ancestor shall be excluded from such inheritance."

By this law, the issue of brothers or sisters of the half blood, without distinction, are preferred or substituted to the cousin of the whole blood a parte paterna, (the heir at common law, or right heir by the law of England,) as heir or heirs general, with an exception quoad hoc, as to property whose title was derived in a certain way.

Now, it is not true, either in legal or popular parlance, that there can be no heir where there is nothing to be inherited. A man's children and other kindred may be described or designated as heirs, whether they take anything from their ancestor or not. Thus, in Counden vs. Clerke, (Hobart, 31 a,) it is said, "But this (the words 'right heirs male') hath a divers consideration in case of descent, and in case of purchase. For the word heir is sometimes taken absolutely, and as the Grecians call it απλωσ, or simpliciter, sometimes κατα τι, or secundum quid, or per accidens; sometimes in abstracto, standing naked by itself, or of itself; and sometimes in concreto, clothed with land or rent, in respect of which he may be heir, as the word is here. For example, the younger son in borough English is heir, and all the sons in gavelkind; whereof the reason is, because the custom of those lands is, that they must descend to the younger sons, or all the sons; so they are heirs secundum quid of those lands in point of descent, or when they descend, for then they are within the custom that gives the inheritance."

Hence a bequest of personal estate "to my heir-at-law," or "right heir," would not be void for want of some person to take, even though the testator should not die seized of real estate. And whether a bequest by a man seized only of property by inheritance from his mother, to his "right heir," or "heir-at-law," would be interpreted as describing his right heir simpliciter or in abstracto, and not his heir secundum quid, or special heir of the particular estate, is possibly an open question. But in the case of Godbold vs. Freestone, (3 Levinz, 406,) an heir a parte materna, limited (by deed) several estates, with reversion to his "right heirs," and it was decided that the reversion should go to his right heirs secundum quid, that is, to his heir a parte materna.

Now, admitting that a devise of Blackacre "to his heir-at-law," or "right heir," by a testator who inherited it from his mother, would be construed as a devise to his heir a parte materna, or his heir quoad hoc, and that such person would hold by descent, and not by purchase, on

the supposition that the testator meant to describe the person who would, at his death, be the lawful heir of the thing devised; and admitting that a bequest by the same person of all his real and personal estate to his heir-at-law would be construed as a designation of the person on whom the law would cast the estate of Blackacre at his death, it is evident that it is the character impressed upon the thing devised or descending to the heir, and to which the testator is supposed especially to refer, which is seized upon by the court to justify them in thus narrowing or changing the general term heir-at-law or right heir, so as to mean his special heir, or heir quoad hoc; and their desire to follow that canon of descent which requires the heir of an estate to be of the blood of the first purchaser. But in case of a bequest of personal estate to the testator's heir-at-law, when he has no special heir, there is no reason for departing from the plain and obvious meaning of the term, nor is there any character impressed upon the thing devised which can restrain it to the blood of the first purchaser. For, in my opinion, formerly delivered in this case, I have shown that I do not concur in the dictum of Sir R. Pepper Arden, in the case of Holloway vs. Holloway, that a bequest in trust for "such person as shall be my heir or heirs-at-law," should be construed "heirs quoad the property," meaning "next of kin." But I concur with a further dictum of his, in the same case, "that in such case the court would consider the testator as the first purchaser," and, as a consequence thereof, would give a bequest of personalty to "my heir-at-law," or "right heir," or "lawful heir," the same destination as if it had been a devise of lands acquired or purchased by the testator.

But to apply these principles more especially to the case before us. The testator left at his death a nephew, A, of the paternal half blood, and a nephew, B, of the maternal half blood, (who, for our present purpose, may represent the two stocks of relatives,) and a cousin, C, of the whole blood a parte paterna. C was his heir presumptive at the time this will was made, in 1791. But when a testator describes his heir-at-law, or lawful heir, as the person that shall take his property, he intends such person or persons as shall be found to sustain that character or description at the time of his decease, by the law of the country of his domicil. By the law of Pennsylvania, the persons who would answer to that description in 1824, when the testator died, are A and B. By that law, they together constitute the lawful heir of the testator in the abstract or simpliciter, and are preferred to C. They take the personal estate by purchase, as the persons described in his will. There is no real property which either would take in exclusion of the other. The terms heir-at-law or lawful heir, as descriptive of the person to take, are not narrowed by accident to a particular subject, nor are we required to look to the exception in the act, or compelled to give to general terms a special application, in order to conform to a principle of law which excludes the heir general, in order to continue the inheritance of the blood of the first purchaser. The exception in the act, which constitutes one of them as heir to the exclu-

sion of the other, through an accidental quality attached to the thing to be inherited, has not occurred, and the question of preference does not arise. Being, therefore, equally within the description of persons entitled to take under the will, they must take jointly.

Second. We come now to the consideration of the second question: "Whether the evidence of the testator's belief that he was owner of certain property devised to him, can be received to show an intention different from that expressed in his will?"

In construing wills, it is often necessary to receive parol testimony, as to the property and persons described in it, in order to apply the devises and bequests to the proper persons and things. And in this way a latent ambiguity may be discovered, which must of necessity be resolved by testimony of the same description.

Now, as we have seen, the reason for construing the general terms of description in a special or narrowed sense, arises from the disposition of the courts to favor the policy of the law, which confines the descent of real estate to the blood of the first purchaser, and the presumption that such was the intention of the testator. And, admitting, for the sake of argument, that the half blood a parte materna would have been excluded by this description, if Matthias Aspden had died seized of his paternal estate, what evidence have we that he would have given it a different destination from that which it now receives, had he believed otherwise? He did not know, when he made his will, that, before his death, the law of descents would be changed in Pennsylvania, yet, having willed that the law, as it existed at the time of his death, should designate the person who should take his property, what right have we to say that he would have made a different will, if he had anticipated the fact of its change? He lived thirty years after the law was changed, and did not change his will on that account. He lived long enough to satisfy any reasonable man that he never would regain his paternal estate. The statute of limitations had twice run against his fancied claim before his death, and yet he made no change in the designation of the person who should take his estate, but left it to the law to settle that question, as the case might be, at his death. We refused to receive evidence that he lived and died in the belief that his lawful heir would be the son of some of his English cousins. His will, clearly expressed, could not be interpreted by his false notions, because it would be pure conjecture to say that he would have changed his will had his notions been different. It is equally conjecture to presume that he would have changed his will had he entertained correct ideas as to his real estate. The testimony introduced on this subject is to limit the description of his devisees, or rather to change the destination of his property, unambiguously expressed, both as regards persons and things, to a different person or class of persons, by declarations of the testator of an absurd belief, when it cannot be proved that he would have given a different destination to it, if his knowledge or faith had been different. Such a construction, founded only on conjecture, would annul the statute of frauds, "and leave

titles depending on intention to the decision of chance and the sport of opinion."

I am of opinion, therefore, that both stocks of half blood are equally entitled to the property in dispute, and take it under the description in the will, as "heir-at-law" or "lawful heir," and that a different intention, in favor of one class to the exclusion of the other, cannot be inferred, from the fact that the testator had mistaken notions in regard to his ownership of real property, at the time he made his will and afterwards, and that such evidence cannot be received to narrow the construction of the clear, unambiguous description of his will, as connected with the actual situation of the property and persons referred to in it.

In the circuit court of the United States, in and for the eastern district of Pennsylvania, in the third circuit.—In equity.

PACKER vs. NIXON. } No. 1, April sess., 1828.

And now, to wit, this eleventh day of November, A. D. one thousand eight hundred and fifty, this cause came on to be further heard at this term, and was argued by counsel; and thereupon, upon consideration thereof, it is ordered, adjudged, and decreed, as follows, to wit:

That the defendant, Joseph Trotter, administrator de bonis non cum testamento annexo of Matthias Aspden, deceased, do account for, pay over, transfer, and deliver, the entire balance of the personal estate of the said Matthias Aspden, which has come to his hands to be administered, after paying the expenses of administration and the costs of this suit,—which are hereby ordered to be paid out of the said fund,—to the following named persons, being the issue of the brothers and sisters of the half blood of the said Matthias Aspden, and his heirs-at-law, or their representatives, in the following proportions and amounts, the whole being divided into thirty-five parts or shares, to wit:

To John B. Francis, administrator of Mary Harrison, one-half of one-thirty-fifth part.

To James M'Murtrie and Rebecca, his wife, one-half of one-thirty-fifth part.

To Sophia Harrison, executrix of George Harrison, one thirty-fifth part.

To Thomas H. White, one-third of one-thirty-fifth part.

To Thomas H. White, executor of Elizabeth Macpherson, one-third of one-thirty-fifth part.

To George Rundle, administrator of Mary Bronson, one-third of one-thirty-fifth part.

To Peter Hartley, executor of Benjamin Hartley, one thirty-fifth part.

To Matthias Hartley, administrator de bonis non, &c., of James Hartley, one-thirty-fifth part.

To Charles Shaler, administrator of John Hartley, one-thirty-fifth part.

To Roger Hartley, one-thirty-fifth part.

To Jesse Hartley, one-sixth of one thirty-fifth part.

To David Hartley, one-sixth of one-thirty-fifth part.

To James (or Hugh) Rannels and Rebecca, his wife, one-sixth of one-thirty-fifth part.

To Tolbert and Mary, his wife, one-sixth of one-thirty-fifth part.

To James Slonaker and Nancy, his wife, one-sixth of one-thirty-fifth part.

To Daniel Luce and Susanna, his wife, one-sixth of one-thirty-fifth part.

To Mahlon Doan and Rebecca, his wife, one-thirty-fifth part.

To Edward Hartley, one-thirty-fifth part.

To Peter Wilson and Susanna, his wife, one-eighth of one-thirty-fifth part.

To Uriah Woods and Dorothy, his wife, one-eighth of one-thirty-fifth part.

To William Jacobs and Martha, his wife, one-eighth of one-thirty-fifth part.

To Peter Peggs, one-eighth of one-thirty-fifth part.

To Daniel Peggs, one-eighth of one-thirty-fifth part.

To James Peggs, one-eighth of one-thirty-fifth part.

To Alfred Howell, administrator of Elizabeth Wilson, one-eighth of one-thirty-fifth part.

To Edward Peggs's representatives, one-eighth of one-thirty-fifth part.

To Thomas Adams, administrator of Barsheba Adams, one-thirty-fifth part.

To Aaron Zane and Joseph Ellis, administrators de bonis non of Sarah Champion, one-thirty-fifth part.

To Joseph Ellis, administrator of Ann Ellis, one-thirty-fifth part.

To Obed Welden, administrator of John Zane, one-thirty-fifth part.

To Aaron Zane and Joseph Ellis, administrators of Samuel C. Zane, one-thirty-fifth part.

To Joseph Ellis and Evan C. Smith, executors of Isaac Zane, one-thirty-fifth part.

To Joseph White and Hannah, his wife, one-eighth of one-thirty-fifth part.

To Elizabeth Hollinshead, widow, one-eighth of one-thirty-fifth part.

To Thomas Warrington and Ann, his wife, one-eighth of one-thirty-fifth part.

To John Hinchman, one-eighth of one-thirty-fifth part.

To William Hinchman, one-eighth of one-thirty-fifth part.

To Jacob Hinchman, one-eighth of one-thirty-fifth part.

To James Heritage and Catharine, his wife, one-eighth of one-thirty-fifth part.

To Benjamin Thomas and Rebecca, his wife, one-eighth of one-thirty-fifth part.

To Joseph Scull, one-sixth of one-thirty-fifth part.

To John Shannon and Ann, his wife, one-sixth of one-thirty-fifth part.

To John Scull, one-sixth of one-thirty-fifth part.

To Thomas Stiles and Rebecca, his wife, one-sixth of one-thirty-fifth part.

To Ruth Middleton, widow, one-sixth of one-thirty-fifth part.

To William Scull, one-sixth of one-thirty-fifth part.

To Joseph Hinchman, administrator de bonis non, &c., of William Hinchman, one-thirty-fifth part.

To Joseph Hinchman, administrator de bonis non, &c., of James Hinchman, one-thirty-fifth part.

To William Brick, executor of Rebecca Borough, one-thirty-fifth part.

To Zebiah Brick, administratrix of John Brick, one-thirty-fifth part.

To Joshua P. Browning, administrator of Thomas B. Hartley, one-half of one-thirty-fifth part.

To Joshua P. Browning, administrator of Elizabeth Fortiner, one-half of one-thirty-fifth part.

To Matthias A. Hartley, administrator of Asher Hartley, one-thirty-fifth part.

To Jacob S. Brick, administrator of Barsheba Brick, one-thirty-fifth part.

To Abraham Kirby, administrator cum testamento annexo of Elizabeth Brick, one thirty-fifth part.

To Jabez Burchard, assignee in bankruptcy of Edmund Brown, one-sixth of one-thirty-fifth part.

To Silas Anthony and Mary, his wife, one-sixth of one-thirty-fifth part.

To Elisha Brown, one-sixth of one-thirty-fifth part.

To Benjamin Brown, one-sixth of one-thirty-fifth part.

To Samuel Baugh, executor of Thomas C. Brown, one-sixth of one-thirty-fifth part.

To Ezra Brown, one-sixth of one-thirty-fifth part.

To J. West Nevins, administrator de bonis non cum testamento annexo of Mary Ann Church, one-thirty-fifth part.

To Rebecca K. Bartram, administratrix of Rebecca Fowler, one-thirty-fifth part.

To Jane W. Horner, widow, one-sixth of one thirty-fifth part.

To C. W. Horner, administrator of Mary Evans, one-sixth of one thirty-fifth part.

To John K. West, one-sixth of one thirty-fifth part.

To Samuel Nevins and Eliza, his wife, one-sixth of one thirty-fifth part.

To Lawson B. Stone, one-half of one-sixth of one thirty-fifth part.

To Thomas Balch, administrator of Thomas R. West, one-sixth of one thirty-fifth part.

To Thomas Balch, administrator of Thomas West Stone, one-half of one-sixth of one thirty-fifth part.

To Joseph Key (or Kay) and Mary, his wife, one-half of one thirty-fifth part.

To William Key (or Kay) and Henrietta, his wife, one-half of one thirty-fifth part.

To Frederick G. Frazer, administrator de bonis non of Eliza Wilson, one-sixth of one thirty-fifth part.

To Frederick G. Frazer, administrator de bonis non of Miriam Jones, one-sixth of one thirty-fifth part.

To Ann Pardee, one-sixth of one thirty-fifth part.

To John Kay, one-sixth of one thirty-fifth part.

To Charles Kay, administrator of Rebecca Kay, one-sixth of one thirty-fifth part.

To Charles Kay, one-sixth of one thirty-fifth part.

To Ann Worrell, widow, one thirty-fifth part.

To Peter Hartley's representatives one thirty-fifth part; the same, however, to be retained by the said defendant until it is made to appear who said representatives are, if any, or the further order of this court.

And it is further ordered, adjudged, and decreed, that the bills and petitions, so far as they relate to the other complainants and petitioners who are claimants before the court, including the bills and petitions filed by all those claiming as next of kin, being descendants of the maternal grand uncles and aunts of the said Matthias Aspden, and also the bills and petitions filed by those claiming under the heir at common law, and all other claimants before the court, however appearing, be dismissed, without costs.

Appeal of John A. Brown, administrator, &c.

Whereupon, afterwards, to wit, on the fourteenth day of November, A. D. 1850, John A. Brown, administrator of John Aspden, of London, by his said solicitor, Henry J. Williams, esq., prays leave to appeal from the decree aforesaid to the Supreme Court of the United States, and the appeal is allowed.

Appeal of Samuel Jackson, administrator, &c.

And afterwards, to wit, on the fifteenth day of November, A. D. 1850, Samuel Jackson, administrator de bonis non cum testamento annexo of John Aspden, of Lancashire, by his said solicitors, William Rawle, Josiah Randall, and Thomas A. Budd, esquires, prays leave to appeal from the decree aforesaid to the Supreme Court of the United States, and the appeal is allowed.

Appeal of James McMurtrie and Rebecca, his wife.

And afterwards, to wit, on the same day, James McMurtrie and Re-

becca, his wife, by their said solicitor, William M. Tilghman, esquire, pray leave to appeal from the decree aforesaid to the Supreme Court of the United States, and the appeal is allowed.

Appeal of George J. Naylor and James E. Packer.

And afterwards, to wit, on the sixteenth day of November aforesaid, George J. Naylor and James E. Packer, by their solicitors, A. J. Fish, W. L. Hirst, and George W. Harris, esquires, pray leave to appeal from the decree aforesaid to the Supreme Court of the United States, and the appeal is allowed.

Appeal of Thomas H. White.

And afterwards, to wit, on the nineteenth day of November, A. D. 1850, Thomas H. White, in his own right, and as executor of Elizabeth McPherson, by his said solicitor, Joseph G. Clarkson, esq., prays leave to appeal from the decree aforesaid to the Supreme Court of the United States, and the appeal is allowed.

Appeal of Thomas Aspden.

And afterwards, to wit, on the same day, Thomas Aspden, in his own right, and as executor of John Aspden, of Lancashire, prays leave to appeal from the decree aforesaid to the Supreme Court of the United States, and the appeal is allowed.

Appeal of George Rundle, administrator, &c.

And afterwards, to wit, on the twenty-first day of November aforesaid, George Rundle, administrator of Mary Bronson, by his said solicitor, Joseph G. Clarkson, esquire, prays leave to appeal from the decree aforesaid to the Supreme Court of the United States, and the appeal is allowed.

Appeal of Sophia Harrison, executrix, &c.

And afterwards, to wit, on the ninth day of December, A. D. 1850, Sophia Harrison, executrix of George Harrison, deceased, by her said solicitor, Henry D. Gilpin, esquire, prays leave to appeal from the decree aforesaid to the Supreme Court of the United States, and the appeal is allowed.

Petition of J. Packer and others.

Afterwards, to wit, on the twenty-fifth day of February, A. D. 1851, the petition of J. Packer and others, praying to be made parties, is presented by their solicitor, George W. Harris, esq.; which petition, being read and filed by order of the court, is in the words, and of the tenor following, to wit:

To the honorable the judges of the circuit court of the United States, for the eastern district of Pennsylvania, in equity.

J. Packer, Hannah Chase, and Mary Jennings, claim to be entitled to a portion of the money in dispute in the proceeding in the case above referred to.

The court is respectfully prayed to allow them to become parties to the proceedings.

Appeal of John Brown Francis, administrator, &c.

And afterwards, to wit, on the tenth day of May, A. D. 1851, John Brown Francis, administrator of Mary Harrison, deceased, by his said solicitor, Henry D. Gilpin, esq., prays leave to appeal from the decree aforesaid to the Supreme Court of the United States, and the appeal is allowed.

UNITED STATES OF AMERICA,
Eastern district of Pennsylvania, sct.

I certify the foregoing to be a true and faithful copy of the record and proceedings of the circuit court of the United States, in and for the eastern district of Pennsylvania, in the third circuit, in a certain suit in equity therein lately depending between Samuel Packer, complainant, and Henry Nixon, respondent.

In testimony whereof I have hereunto subscribed my name, and affixed the seal of the said circuit court, at Philadelphia, this [L. S.] twenty-third day of May, A. D. 1851, and in the seventy-fifth year of the independence of the said United States.

GEORGE PLITT,
Clerk of circuit court.

1165.

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